

October 2025

THE LEGAL

INTERNATIONAL

COMBATTING CLIMATE CHANGE

The Crucial Role of Law

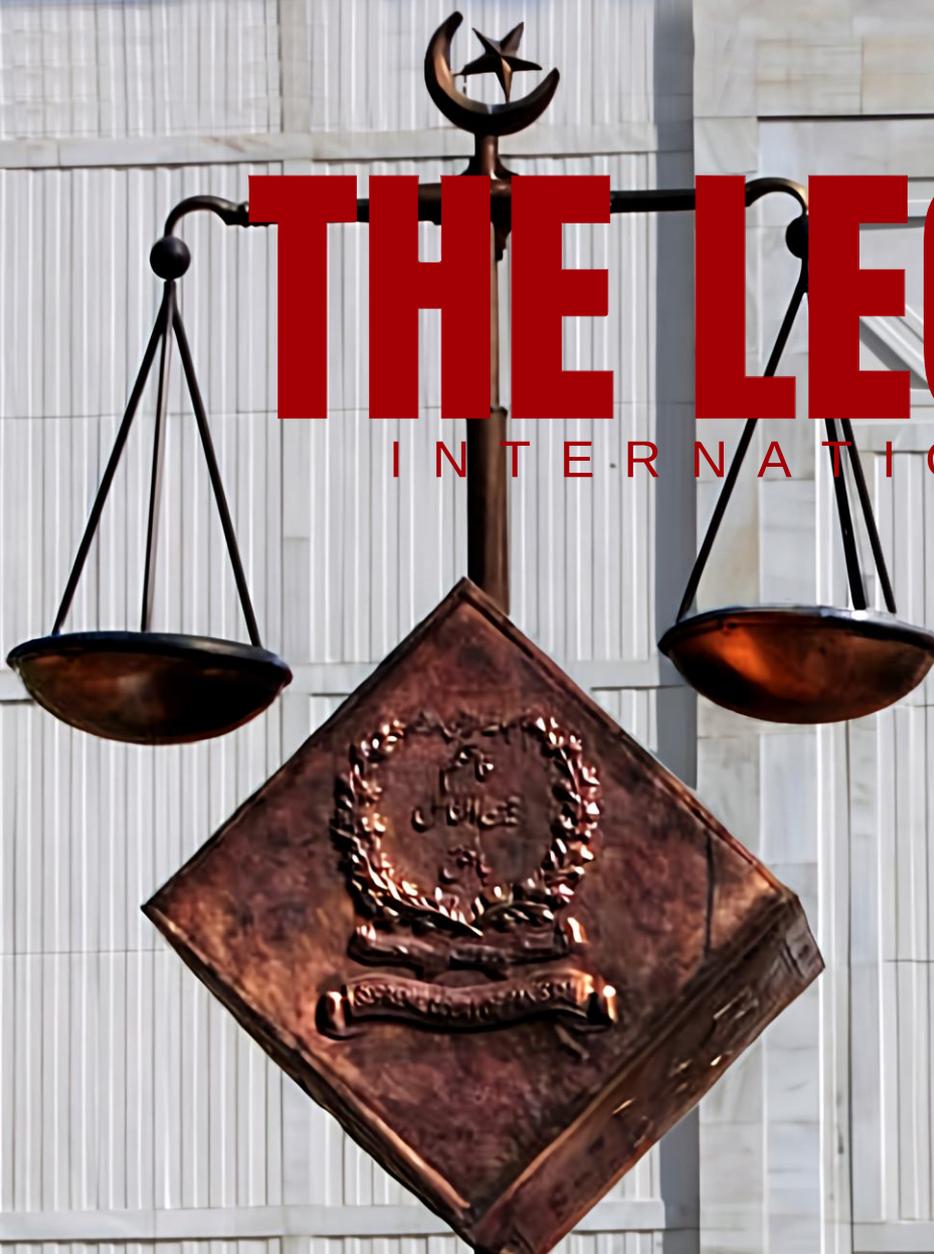
The Internal Turmoil

A Judiciary Unravelling

Re-writing

THE MAINTENANCE DOCTRINE IN MUSLIM MARRIAGE

Interview
JUSTICE WITH INTEGRITY



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EXOTIC DRINKING WATER



19L

BENEFITS OF HYGIENIC WATER

1. Strengthen Immune System
2. Strengthen Digestive System
3. Refreshes Your Taste Bud
4. Boost Skin's Health.
5. Delivers Oxygen Throughout the Body.
6. Regulates Body Temperature

NUTRITIONAL FACTS

| | |
|-----------|-------------|
| Magnesium | 7-50 ppm |
| Sodium | 7-50 ppm |
| Sulphate | 5-150 ppm |
| Calcium | 30-100 ppm |
| Potassium | 0.01-5 ppm |
| Chloride | 5-200 ppm |
| Fluoride | 0.1-0.7 ppm |
| TDS | 100-200 ppm |
| PH | 6.5-8.5 |



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IMAGE: © The Legal

Judicial Ban on Jahangiri Nullified

The Supreme Court of Pakistan set aside the order of Islamabad High Court, on September 30, which had restrained Justice Tariq Mehmood Jahangiri from performing judicial functions, pending proceedings concerning the alleged falsification of his law degree. – Read the story on P22

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Editor's Note

As editor, I am struck this month by the sheer range of legal questions our region's courts are being asked to resolve, from intimate family rights to institutions of faith, from the reach of military jurisdiction to the law's role in confronting climate risk. Each piece in this issue pays careful attention to doctrine and detail, but together they also tell a broader story about law as both a shield for rights and a mechanism of social ordering.

Our lead on gender justice, the Supreme Court's reworking of the maintenance doctrine in *Ambreen Akram v Asad Ullah Khan*, is nothing short of transformative: the Court grounds a wife's entitlement in the marriage contract itself, not in *rukhsati* (consummation). By drawing on constitutional guarantees of dignity and equality as well as the *maqāṣid* of Islamic law, the Court has reshaped the doctrine that governs marital obligations, moving beyond patriarchal custom to a principle-based entitlement.

Equally consequential is the Court's detailed judgment on the legality of military trials for civilians. While upholding such trials under the Pakistan Army Act, it instructed Parliament to legislate within forty-five days to create a civilian appellate forum, underscoring that security concerns cannot eclipse due-process rights.

In India, the judiciary has continued to police high-profile criminal proceedings: the top court's direction that Jacqueline Fernandez's money-laundering trial proceed is a reminder that courts still insist on process even amid media storms.

Indian Supreme Court's interim judgement on the Waqf (Amendment) Act, 2025, delivered in mid-September, also merits close attention. The Court stayed several provisions it found *prima facie* arbitrary while upholding key elements of the new framework, a mixed outcome that reassures in part but leaves open serious questions about minority institutions' autonomy and the scope for executive oversight.

Our reporting also looks beyond individual cases. Legal engagement with climate change is gathering pace: courts are increasingly asked to translate policy shortfalls into enforceable obligations, and the piece on law and climate considers where judicial innovation can and cannot substitute for political will.

Finally, the internal strains within several superior courts, procedural turbulence, reform packages and bar-bench tensions, underline a persistent truth: the legitimacy of legal institutions depends as much on their procedures and tone as on the outcomes they reach.

Read these features with a critical but open mind. Our aim is to inform debate, not to inflame it, and to equip readers with the legal understanding necessary for constructive public conversation. ■

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NEWS BRIEFING

Times Targeted

New York – In a dramatic escalation of his long-standing feud with the press, President Donald Trump has launched a \$15 billion defamation lawsuit against The New York Times, accusing the newspaper of orchestrating a “decades-long pattern” of malicious falsehoods.

Filed in Florida's Middle District federal court, the complaint names four reporters and the publisher as co-defendants, citing three articles and a book published in late 2024 as central to the alleged defamation.

The lawsuit claims these publications were driven by “actual malice” and formed part of a broader campaign to tarnish Trump's reputation.

The New York Times responded swiftly, dismissing the suit as meritless and characterising it as an attempt to intimidate and suppress independent journalism. “The Times will not be deterred by intimidation tactics,” the paper stated, reaffirming its commitment to reporting without fear or favour.

Trump, meanwhile, took to his Truth Social platform to declare an end to what he described as years of unchecked defamation.

Historic Crash Retrial

Paris – Airbus and Air France pleaded not guilty to manslaughter on September 29, as a new trial over France's worst air disaster began. A jet crashed into the Atlantic sixteen years ago, killing all 228 people on board.

A French court had cleared both companies of corporate manslaughter in 2019, following a historic trial concerning the loss of Air France flight 447 from Rio de Janeiro on 1st June 2009. The Airbus A330 plunged into the ocean during a storm.

The chief executives of both companies acknowledged the families' suffering but denied criminal responsibility. Prosecutors appealed the acquittal, and victims' families are seeking to establish criminal wrongdoing during the appeal, which is expected to run until late November.

**Legal Ties Strengthened**

Hong Kong – Pakistan and Hong Kong formalised a new phase of legal collaboration on September 10 with the signing of a Memorandum of Cooperation (MoC) during the 10th Belt and Road Summit in Hong Kong.

The agreement was signed by Raja Naeem Akbar, Federal Secretary at Pakistan's Ministry of Law and Justice, and Paul T.K. Lam, Secretary for Justice of the Hong Kong Special Administrative Region. The MoC establishes a framework for cooperation in legal affairs, institutional capacity-building, and promotion of arbitration and alternative dispute resolution (ADR). It also outlines joint engagement in emerging domains such as digital governance and regulation of virtual assets.

Former Minister Sentenced

Beijing – A former Chinese minister has been sentenced to death with a two-year reprieve for bribery offences.

Tang Renjian, 63, the former Minister of Agriculture and Rural Affairs, was found guilty by the Changchun Intermediate People's Court in Jilin Province on September 28. In addition to the death sentence, which is typically commuted to life imprisonment after the two-year reprieve, he was deprived of his political rights for life and had all his personal assets confiscated. The court also ordered that his illicit gains and any related interest be turned over to the state treasury.

The court found that between 2007 and 2024, Tang exploited his official positions, which included Governor of Gansu Province and Minister of Agriculture and Rural Affairs, to secure benefits for various individuals and organisations. This assistance covered matters such as business operations, project contracts, and job adjustments. In return, he accepted bribes totalling 268 million yuan (approximately £30.8 million).

The judgement stated that Tang deserved the death sentence due to the “extremely large” sum of the bribes and the “huge losses” his actions had caused to the state and the public. However, the court noted it had shown leniency because Tang had confessed to his crimes, volunteered information about bribes previously unknown to investigators, and agreed to hand over his illegal gains.

Mr Tang's downfall began in May 2024, when he was placed under investigation for suspected “serious violations of Party discipline and national law.” He was formally indicted for bribery in April of this year, and his case was heard publicly in July.

Rules Amid Dissent

Islamabad – A full court meeting on September 4, Islamabad High Court (IHC) adopted the High Court Establishment (Appointment and Conditions of Service) Rules, 2025 by a razor-thin majority, despite vocal opposition from senior judges.

The meeting, attended by all 11 judges including Chief Justice Sardar Mohammad Sarfraz Dogar. The adoption of the new service rules, however, sparked division. Five judges, including Justices Kayani, Jahangiri, Sattar, Ejaz Ishaq Khan, and Imtiaz, opposed the rules, citing procedural concerns and alleged misuse of administrative powers.

NEWS BRIEFING



Golden Jubilee Celebrations

Muzaffarabad – Marking its 50th anniversary, the Supreme Court of Azad Jammu and Kashmir convened a judicial conference in Muzaffarabad on September 13, celebrating five decades of its role as the constitutional guardian.

Chief Justice Raja Saeed Akram Khan inaugurated the event by paying tribute to the judiciary's enduring legacy. He lauded its crucial function in safeguarding fundamental rights and invalidating unconstitutional legislation. He expressed pride that the Court had successfully cleared its docket, with no case predating 2024 left pending, a big achievement underscoring its commitment to delivering timely justice.

The event drew senior jurists from across the country, including Chief Justice of Pakistan Yahya Afridi, who praised AJK's judiciary for its impartiality, procedural rigour, and strides in digital modernisation. AJK High Court Chief Justice Sardar Liaqat Hussain reflected on the institution's evolution since 1948, while Law Minister Mian Abdul Waheed pledged continued governmental support for infrastructure and reform.

Bar leaders echoed solidarity with the people of Indian Illegally Occupied Jammu and Kashmir (IIOJK), condemning India's abrogation of Articles 370 and 35-A. Justice Akram paid tribute to Pakistan's armed forces, particularly the Air Force and cyber units, for their response to Indian aggression in May 2025.

The conference concluded with renewed calls for judicial independence, systemic accountability, and alignment of laws with Islamic principles. Tributes were offered to Kashmiri martyrs, reaffirming the judiciary's role as a bulwark of justice and freedom.

Justice for Monkeys

Lahore – Lahore High Court has ordered the relocation of 26 smuggled Brazilian monkeys to a specialised sanctuary, rejecting a proposal to house them at Lahore Zoo.

Seized at Karachi Port in January, the endangered marmosets and capuchins were found in cramped cages, with two dying en route.

Lawyers Nationwide Protest

Islamabad – A nationwide lawyers' movement has been launched in Pakistan to oppose the 26th Constitutional Amendment, which legal experts claim undermines judicial independence.

At a roundtable held in Islamabad on September 25, senior lawyers, political leaders, and human rights advocates formed a committee led by Barrister Aitzaz Ahsan to spearhead the campaign. A national convention is scheduled for 11 October in Lahore to mobilise support.

Prominent voices including Hamid Khan, Sardar Latif Khosa, and Imaan Mazari condemned the amendment, warning it erodes constitutional safeguards and threatens the rule of law. Mazari criticised restrictions at the Islamabad High Court, while Justice (ret'd) Shahid Jamil urged lawyers to resist what he called the judiciary's existential crisis.

Barrister Ali Zafar accused the government of politicising the judiciary, and PTI Chairman Barrister Gohar Ali Khan pledged party support. The movement's resolution calls to "save the country, protect the motherland, and safeguard journalism."

Transgender Expulsion

Peshawar – The Human Rights Commission of Pakistan (HRCP) has denounced a decision by a local jirga in Swabi to expel all transgender persons from the district, describing the move as unconstitutional and tantamount to incitement against a vulnerable minority.

The condemnation follows media reports that an 11-member committee of elders, including the tehsil president of Jamiat Ulema-e-Islam (F), Maulana Abdul Samad Haqqani, had resolved to remove transgender individuals from the area. The HRCP issued its statement on Sunday via social media platform X, asserting that "no citizen can be deprived of the right to reside, work or earn a livelihood anywhere in Pakistan on the basis of gender identity."

The Commission urged provincial and district authorities to "immediately ensure the safety and dignity of transgender persons in Swabi and uphold their fundamental rights under the Constitution and the Transgender individuals (Protection of Rights) Act 2018."

Maulana Haqqani reportedly claimed that the presence of transgender individuals was linked to musical gatherings that "negatively impact the youth," and suggested they should relocate peacefully. Yasir Khan, another committee member, stated that the initial phase would involve requesting voluntary departure, failing which the police would be engaged. Committee members indicated plans to reconvene in the coming days and to hold discussions with district law enforcement to formulate a plan of action.

Legal experts have warned that such extrajudicial decisions by informal bodies undermine constitutional protection and risk legitimising discrimination. The HRCP's intervention underscores growing concern over vigilante actions targeting marginalised groups.

Lines of Legitimacy

Supreme Court affirms military trials for civilians, in its detailed judgement, redrawing the contours of legal accountability in Pakistan.



TL Report
Islamabad

The Constitutional Bench of the Supreme Court of Pakistan issued its long-awaited detailed verdict on the legality of military trials for civilians, reaffirming its earlier short order of May 7, that upheld the constitutionality of such proceedings.

The [judgment](#), delivered by a seven-member bench on September 23, sets aside the October 2023 ruling that had declared military trials of civilians unconstitutional, and instead calls for legislative reform to ensure procedural fairness and appellate safeguards.

Authored by Justice Aminuddin Khan, with a [concurring note](#) by Justice Muhammad Ali Mazhar, the 68-page majority opinion was endorsed by Justices Hasan Rizvi, Musarrat Hilali, and Shahid Bilal. Justices Jamal Khan Mandokhail and Naeem Akhtar Afghan dissented, maintaining that the military trials violated constitutional guarantees. The bench's decision pivots on a nuanced interpretation of the Pakistan Army Act, 1952, and its compatibility with constitutional provisions, particularly Article 10A, which enshrines the right to a fair trial.

The court's primary rationale for overturning the earlier judgment lies in its reassessment of the Army Act's statutory framework. It held that the Act is not inherently unconstitutional and does provide a procedural structure for trials, including rules of evidence, the right to counsel, and internal avenues of appeal. However, the court acknowledged that these mechanisms are insufficient when applied to civilians, who lack access to an independent appellate forum within the civilian judiciary. This deficiency, the court ruled, does not warrant striking down the relevant provisions of the Act but necessitates legislative intervention.

Central to the court's reasoning was the distinction between the existence of military courts and the adequacy of their procedures. The bench rejected the argument that Article 175(3), which mandates the separation of the judiciary from the executive, prohibits military courts. It clarified that military tribunals operate under a distinct constitutional and statutory pathway and do not usurp the jurisdiction of ordinary courts. The court cited international legal standards, including Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to support its position that military courts are permissible provided they guarantee fairness and impartiality.

The judgment also addressed the events that precipitated the trials, namely, the May 9, 2023 riots following the arrest of Pakistan Tehreek-e-Insaf (PTI) founder Imran Khan, during which civilians were accused of attacking military installations. The court noted that the offences fell within the ambit of Section 2(1)(d)(i) and (ii) and Section 59(4) of the Army Act, which permit the trial of civilians under specific circumstances. It held that the previous ruling had erred in interpreting Article 8(5) of the Constitution, which prohibits the suspension of fundamental rights, as grounds for nullifying these provisions.

In a directive, the court ordered the federal government to enact legislation within 45 days to establish a statutory right of appeal

for civilians convicted by military courts. This appeal must be heard by High Courts, thereby integrating civilian oversight into the military justice framework. The court emphasised that such reform is essential to uphold constitutional guarantees and Pakistan's obligations under international law.

During the hearings, Attorney General Mansoor Usman Awan repeatedly sought time to consult the government on the matter of appeals. He assured the bench that any recommendations for statutory reform would be taken seriously. The court recorded these assurances and expressed confidence that Parliament would honour its institutional responsibility by enacting the necessary amendments.

The dissenting judges, however, remained unconvinced. Justices Mandokhail and Afghan reiterated their view that military trials of civilians are incompatible with the Constitution and should be prohibited outright. Their dissent underscores the ongoing debate within Pakistan's legal community about the role of military courts in a democratic society.

The Supreme Court's detailed verdict marks a pivotal moment in Pakistan's constitutional jurisprudence. By upholding the legality of military trials while mandating procedural reforms, the court has sought to balance institutional prerogatives with individual rights. Whether Parliament will meet the 45-day deadline remains to be seen, but the judgment has undoubtedly reshaped the contours of civil-military legal accountability in Pakistan. ■

MONEY LAUNDERING

Fernandez Plea Falls

Indian Supreme Court refuses to quash money laundering charges against Bollywood actress Jacqueline Fernandez, affirming trial must proceed under PMLA.



IMAGE: Courtesy Social Media

by **Saeed Ahmed**
Mumbai

In a blow to Bollywood actress Jacqueline Fernandez, the Supreme Court has dismissed her petition to quash a money laundering case. The court ruled the allegations must be tested at trial, refusing to intervene in the ₹215 crore extortion case.

The bench, comprising Justices Dipankar Datta and Augustine George Masih, underscored the judiciary's stance against pre-trial exoneration in financial crime probes. Their ruling marks a vital juncture in the PMLA case linked to alleged conman Sukesh Chandrashekhar.

The Court held that the accusations against Fernandez cannot be invalidated prematurely through judicial intervention. She has been named as an accused in the extensive money laundering investigation, which will now proceed to a full trial.

Fernandez, who has consistently maintained her innocence, approached the apex court after the Delhi High Court earlier rejected her petition challenging the Enforcement Directorate's (ED) chargesheet and the First Information Report (FIR) registered under PMLA.

The actress contended that she had no knowledge of Chandrashekhar's criminal activities and that the gifts she received from him were given in good faith during a personal relationship. However, the Supreme Court was unpersuaded by this line of defence, observing that the nature of the allegations, particularly the receipt of high-value assets suspected to be proceeds of crime, warranted judicial scrutiny through trial.

The bench cited the Vijay Madanlal Choudhary judgment, which upheld the constitutional validity of PMLA provisions, to reinforce its position that the threshold for quashing proceedings under the Act is exceptionally high. Justice Datta remarked during the hearing, "If one friend gives something to another and it later turns out the giver is involved in an offence, it becomes difficult."

The Court emphasised that at the stage of framing charges, the

allegations must be accepted at face value and that the accused may present their defence only during the trial phase. Fernandez was granted liberty to approach the trial court with any appropriate application, but her plea for pre-trial relief was unequivocally denied.

The case against Fernandez stems from a broader investigation into Sukesh Chandrashekhar, who is accused of defrauding prominent individuals, including the wife of former Fortis Healthcare promoter Shivinder Singh, by impersonating senior government officials. Chandrashekhar allegedly used the proceeds of this fraud to fund a lavish lifestyle and shower expensive gifts on Fernandez, including jewellery, designer handbags, luxury cars, and even a horse.

The ED has alleged that Fernandez was a "beneficiary" of the proceeds of crime and that she attempted to tamper with evidence by deleting data from her mobile phone following Chandrashekhar's arrest.

In its supplementary

chargesheet filed in August 2022, the ED named Fernandez as the tenth accused and detailed the financial transactions and material benefits she allegedly received. The agency has also claimed that Fernandez was aware of Chandrashekhar's criminal antecedents but continued to engage with him, thereby implicating herself in the laundering of illicit funds. Fernandez has denied these allegations, stating that she was misled by Chandrashekhar, who posed as a government official and fabricated a narrative of legitimacy.

The actress's legal team argued that her inclusion in the chargesheet was based on conjecture and that she had cooperated fully with the investigation. They further asserted that the ED's case lacked substantive evidence linking her to the predicate offence. However, the Supreme Court held that such arguments must be tested during trial and not at the threshold stage. The bench reiterated that the power to quash criminal proceedings must be exercised sparingly and only in cases where the allegations are manifestly absurd or inherently improbable, conditions not met in Fernandez's case.

The rejection of Fernandez's plea has drawn considerable attention from legal commentators and the entertainment industry alike, given the high-profile nature of the case and the broader implications for celebrity accountability in financial investigations. While Fernandez continues to enjoy bail, she remains under scrutiny and is required to appear before the trial court as directed. The ED has not sought custodial interrogation at this stage, but the agency has maintained that the investigation is ongoing and that further disclosures may emerge.

As the trial court prepares to hear the matter, Fernandez faces the prospect of a prolonged legal battle to clear her name. For now, the Supreme Court's rejection of her plea has closed the door on pre-trial relief and reaffirmed the principle that judicial scrutiny must follow due process, not precede it. ■



Judiciary Sets Course

Supreme Court of Pakistan inaugurates new judicial year with sweeping reforms

The Supreme Court of Pakistan has ushered in its new judicial year with a conference, announcing an ambitious package of reforms, performance benchmarks, and symbolic gestures designed to drive forward transparency, public accessibility, and institutional accountability.

In a ceremony held at the Supreme Court on September 8, 2025, the Judicial Conference marked the formal commencement of the new judicial year. The event was attended by the Judges of the Supreme Court, Attorney General Mansoor Usman Awan, senior representatives of the Pakistan Bar Council and Supreme Court Bar Association, and members of the media.

Chief Justice of Pakistan, in his keynote address, underscored the significance of the occasion as more than ceremonial, describing it as a moment of institutional reflection and strategic planning. He outlined five foundational pillars of reform introduced over the past year: technological enhancement of service delivery, improved access and transparency, regulatory strengthening, international collaboration, and revitalisation of attached institutions.

Among the key reforms highlighted were digital case filing, e-notices, video-link hearings, and the launch of a public feedback portal. The Court also introduced an anti-corruption hotline, conducted an external audit of its accounts, and established an Overseas Litigants Facilitation Cell. The notification of the new Supreme Court Rules, 2025, was presented as a cornerstone of procedural modernisation.

The Chief Justice also cited initiatives under the Federal Judicial Academy and Law and Justice Commission, including time-bound trials, expanded mediation services, and a Charter on the Ethical Use of Artificial Intelligence. Reforms in family and criminal law were noted as part of a broader effort to make justice more responsive and inclusive.

Performance data revealed that between September 2024 and September 2025, the Supreme Court disposed of 22,863 cases against 20,811 instituted, reducing overall pendency from 60,635 to 56,943. While acknowledging this progress, the Chief Justice urged the Bar to help curb rising adjournments, which had impeded efficiency.

Three symbolic inaugurations were also held: a Public Facilitation Centre, opened by a randomly selected litigant whose case was scheduled that day; a Supreme Court Media Platform, launched by the President of the Court Reporters Association; and a Bar Cafeteria, inaugurated by the President of the Supreme Court Bar Association.

In closing, the Chief Justice expressed gratitude to all stakeholders and reaffirmed the judiciary's commitment to building on these reforms. He pledged that the coming year would be defined by swifter, stronger, and more citizen-focused justice delivery. — PR

The Stipend Debate

Why Stipends Should Reflect Contribution, Not Entitlement



by **Syed Mohammad Ali**
AHC - Islamabad

Going against popular opinion is never easy, yet at times it becomes necessary to clear the air. I have long advocated for a fair and reasonable compensation framework for young advocates entering the legal profession. However, before we get to that discussion, we must first address a fundamental misconception: what does it mean to be an advocate?

The practice of law is not, and never has been, a form of employment. Employment generally involves a company hiring an individual who brings value to an existing set-up, addresses a need, or generates business growth. An advocate, by contrast, is not an employee but a service provider. The legal profession is a calling and a choice, one that requires an individual to fully understand the demanding dynamics of the field. Unlike traditional jobs that run on a nine-to-five framework, legal service is continuous, requiring a commitment that often extends around the clock.

When a young advocate joins a chamber or begins training under a senior, the relationship is not akin to a corporate hiring arrangement. It is, in fact, the advocate's need that is greater. A fresh graduate may hold an LLB (Hons.) degree, but what they lack are the practical skills, client base, and professional reputation necessary to thrive. It is the senior or chamber that offers the platform, environment, and mentorship required to bridge this gap.

This is why the debate around stipends, remuneration, or initial compensation must be reframed. Such payments should not be viewed as entitlements or as acts of charity simply because one has acquired a degree. Instead, compensation must be linked

to the value and service that the young advocate provides to the chamber.

It is common to hear comparisons drawn between young advocates and graduates from other disciplines, such as business administration, medicine, computer science, or marketing. But the distinction is critical. A BBA graduate entering a company contributes directly to operational efficiency; a doctor brings expertise that saves lives; a computer scientist develops solutions that increase productivity; a marketing graduate helps expand business outreach. Each of these professions generates measurable value from day one. By contrast, young advocates, at the outset of their careers, do not generate direct business or income for the chambers they join.

The legal profession must, therefore, be understood as a journey of apprenticeship, learning, and gradual value-building. Stipends may be appropriate where the young lawyer contributes tangibly to the chamber's practice, but expecting blanket compensation without corresponding contribution risks misunderstanding the essence of advocacy.

Where Do We Go from Here?

If we are to resolve this debate meaningfully, the Bar Councils must step forward. They cannot remain passive observers. Each provincial Bar Council should take responsibility for



understanding the profession's ground realities by conducting proper surveys, identifying the number of senior advocates, law firms, and the practice areas they cover, alongside the number of interns and young advocates entering the field every year. This should include a breakdown of locally qualified graduates and those with foreign or external degrees.

Such data would not only highlight the gaps but also provide a basis for structured support. Bar Councils could then take on the role of matching young lawyers with chambers or firms, creating environments where learning is prioritised and value is gradually built. Alongside this, training programmes, mentorship schemes, and professional development opportunities must become a regular feature of the Bar Councils' work.

This would give young advocates a pathway to grow into their profession with clarity, while also ensuring that any compensation they eventually receive is tied to the skills and services they can provide.

The debate, then, is not about whether young lawyers "deserve" money simply for holding a degree. It is about whether the profession itself is equipped to channel their potential into value. If young advocates shift their focus from entitlement to growth, and Bar Councils step in to guide and allocate opportunities, the legal profession will not only become stronger but also more sustainable for the next generation. ■

What's on Your mind?

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Transfers Upheld Lawful

The majority CB ruling affirms Article 200 as a valid tool for judicial postings, provided key constitutional safeguards are strictly met.

The Supreme Court released, on September 25, the [majority decision](#) (3/2) of its Constitutional Bench that dismissed all petitions challenging the contentious transfer of three sitting provincial high courts judges to Islamabad High Court (IHC).

The short order was delivered by the five-member Bench on June 19, under its original jurisdiction, invoked pursuant to Article 184(3) of the Constitution. Three members of the Bench, including Justice Muhammad Ali Mazhar, Justice Shahid Bilal, and Justice Salahuddin Panhwar, had declare that transfer of the judges was not unconstitutional. While, the two others, including Justice Naeem Akhtar Afghan and Justice Shakeel Ahmad, had dissented from the majority decision.

Upholding the lawfulness of the presidential notification issued on February 1, 2025, the Court firmly affirmed that Article 200 of the Constitution serves as a valid instrument for both temporary and permanent judicial transfers, provided the crucial safeguards of consent, consultation, and public interest are rigorously met.

The contested notification concerned the relocation of Justice Sardar Muhammad Sarfraz Dogar from Lahore High Court, Justice Khadim Hussain Soomro from Sindh High Court, and Justice Muhammad Asif from Balochistan High Court to the IHC.

The move was challenged by five IHC judges, multiple bar associations from Lahore and Karachi, and individual litigants. Petitioners contended that the transfers violated Article 175-A, disrupted seniority within the IHC, and lacked meaningful consultation or demonstrable public-interest justification.

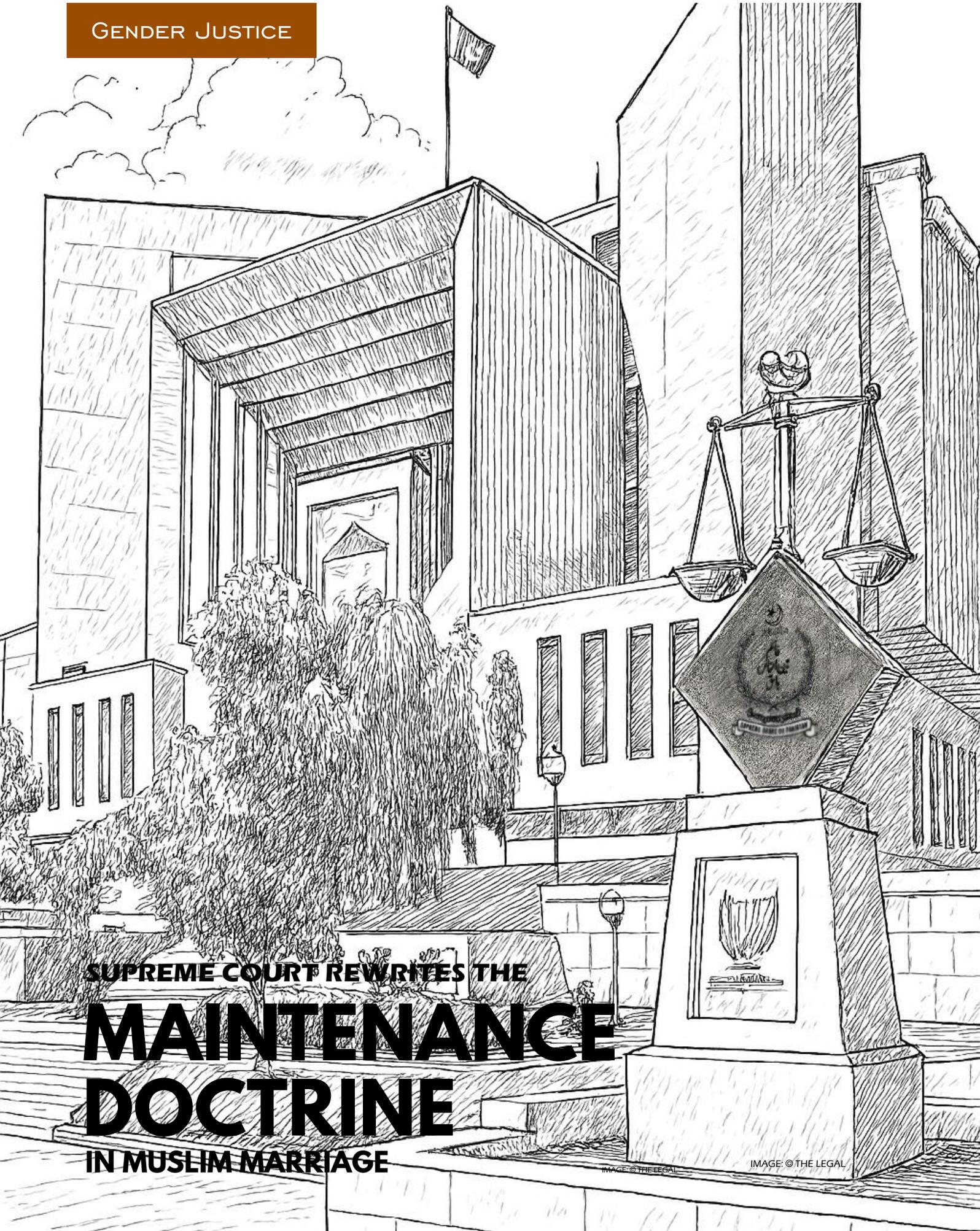
Senior Advocate Muneer A. Malik, appearing for the petitioners, argued that Article 200 permits only temporary deputation and cannot be used to effect permanent relocation. He cited Al-Jehad Trust (PLD 1996 SC 324) to underscore the primacy of judicial consultees and warned that the transfers undermined the separation of powers. Particular concern was raised over Justice Dogar's placement atop the IHC seniority list despite being junior in his parent court, fuelling allegations of "bench-packing".

The Federation, represented by Attorney-General Mansoor Usman Awan, defended the notification as a bona fide response to the IHC's backlog and vacancies. It was submitted that Article 200 is a self-contained constitutional power distinct from Article 175-A, and that all requisite safeguards, consent of the judges and consultation with the Chief Justice of Pakistan and the relevant High Court chief justices, had been duly observed.

Justice Muhammad Ali Mazhar, authoring the majority judgment, held that Article 200 operates as an independent mechanism for judicial transfer and does not require a fresh appointment. Applying the doctrine of harmonious construction, the Court read Articles 200 and 175-A as complementary, not conflicting. It affirmed that the transferee judges retained their original seniority under Article 193 and that no mala fides or breach of judicial independence had been established.

Concurring with the majority, Justice Salahuddin Panhwar [offered](#) a constitutional interpretation. He distinguished between temporary deputation under Article 200(3) and permanent transfer under Article 200(1), noting the deliberate absence of temporal language in the latter.

Justice Panhwar further said that no fresh oath under Article 194 was required since the transfer did not constitute a new appointment. He highlighted the federal character of the IHC, advocating for regional and linguistic diversity in its composition. To pre-empt future disputes over seniority, he proposed a Unified National Seniority List for High Court judges, to be annually notified by the President in consultation with the Chief Justice of Pakistan. — TL



**SUPREME COURT REWRITES THE
MAINTENANCE
DOCTRINE
IN MUSLIM MARRIAGE**

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IMAGE © THE LEGAL



The husband's obligation to maintain his wife arises from the moment the marriage is contracted.

Aftab Kazmi
Editor-in-Chief

In a revolutionary ruling, Pakistan's Supreme Court held that a Muslim wife's right to maintenance begins at marriage, not consummation or rukhsati. The judgment redefines marital obligations through constitutional principles of dignity and equality, rejecting patriarchal interpretations. It affirms maintenance as a legal entitlement rooted in the marriage contract, supported by statutory law and Islamic jurisprudence.

In a decisive break from patriarchal precedent, Pakistan's Supreme Court has ruled that a Muslim wife's right to maintenance begins at marriage, not consummation, redefining marital obligations through a constitutionally anchored lens of gender justice.

Delivered on September 11, 2025 in *Ambreen Akram v. Asad Ullah Khan* (Civil Petition No. 1107-L of 2015 and Civil Appeal No. 247-L of 2017), the judgment authored by Justice Syed Mansoor Ali Shah and joined by Justice Aqeel Ahmed Abbasi overturns the Lahore High Court's 2015 decision and affirms the petitioner's entitlement to maintenance from the date of *nikah* until the conclusion of her *iddat* period.

Ambreen Akram entered into a valid *nikah* with Asad Ullah

Khan on November 2, 2012. Though *rukhsati* was mutually scheduled for February 2013, the husband indefinitely deferred cohabitation. In October 2013, the petitioner filed for maintenance before the Family Court in Faisalabad, seeking Rs. 25,000 per month and arrears from the date of marriage. The Family Court awarded Rs. 3,000 monthly *ex parte*, later enhanced to Rs. 5,000 by the District Judge. Lahore High Court reversed both decisions, holding that maintenance was not payable as the marriage had not been consummated.

The Supreme Court rejected this reasoning, holding that “the obligation of maintenance flows from the contract of marriage and not from consummation or *rukhsati*” Justice Shah writes:

“The marriage contract (*nikah*) is a civil contract and once entered into, it creates rights and obligations for both spouses. The husband's obligation to maintain his wife arises from the moment the marriage is contracted.”

The judgment critiques classical doctrines such as *ihtibās* (physical availability) and *nushūz* (rebellion), which historically conditioned maintenance on obedience. Justice Shah calls these formulations reductive and incompatible with the *maqāṣid* (higher objectives) of Islamic law, which prioritise dignity, justice, and welfare.



Citing contemporary scholars such as Mohammad Hashim Kamali and Jasser Auda, the court advocates for a purposive, rights-based interpretation of *Shari'ah*. It holds that a husband may only be excused from paying maintenance if he proves, through clear and cogent evidence, that the wife has wholly and unjustifiably withdrawn from the marital relationship, including its emotional, residential, and relational aspects.

“The concept of *nushūz* must be understood in its broader relational context,” the judgment states. “It cannot be reduced to mere physical absence or non-cohabitation.”

Justice Shah affirms that maintenance is a binding legal duty that flows directly from the marital contract, not from physical cohabitation or conjugal access. He writes:

“Maintenance is not a *quid pro quo* for sexual access. It is a legal obligation arising from the ethical and contractual framework of marriage.”

The Court draws upon classical Islamic jurisprudence, statutory enactments, and reformist scholarship to support this view. It notes that the Hanafi school, which predominates in Pakistan, recognises the wife's right to maintenance upon the conclusion of a valid marriage contract, regardless of consummation.

The Court's deliberations were enriched by submissions from three *amici curiae*: Professor Khaled Abou El Fadl (UCLA School of Law), Dr Muhammad Zubair Abbasi (University of London), and Fatima Yasmin Bokhari (CEO Musawi).

Professor El Fadl rejected the notion that maintenance is contingent on sexual access, calling it “clearly patriarchal and disrespectful towards women.” He endorsed the Hanafi position and urged the Court to adopt a rights-based framework.

Dr Abbasi critiqued colonial-era jurisprudence for embedding patriarchal assumptions into Anglo-Muhammadan law. He argued that maintenance is a legal entitlement grounded in the civil nature of the marital contract and supported by statutory provisions such as Section 9 of the Muslim Family Laws Ordinance, 1961 and Section 17A of the Family Courts Act, 1964.

Fatima Bokhari urged the court to move beyond the “maintenance-obedience complex,” citing reforms in Tunisia,

Morocco, and Turkey. She called for a jurisprudence rooted in mutual respect and constitutional equality.

Justice Shah praised these contributions, noting: “The *amici curiae* have provided valuable insights that bridge doctrinal clarity with constitutional values. Their submissions have helped illuminate the path towards a more just and inclusive jurisprudence.”

The judgment affirms that Pakistani statutory law treats maintenance as an enforceable right. Section 9 of the MFLO empowers wives to seek maintenance without requiring proof of consummation. Section 17A of the Family Courts Act introduces summary procedures for interim relief and arrears recovery.

Justice Shah situates these provisions within the broader constitutional framework, invoking Articles 14 (dignity), 25 (equality), and 35 (protection of the family). He writes: “Any interpretation that reduces this right to the wife's subordination negates the ethical core of the relationship as envisioned by both the Qur'an and constitutional values.”

The Court addresses the socio-cultural practice of *rukhsati*, concluding that it holds no independent legal status under Islamic or statutory law. Conditioning maintenance on *rukhsati*, the court warns, enables husbands to evade financial responsibility and imposes unconstitutional burdens on women.

“*Rukhsati* is a cultural practice, not a legal requirement,” the judgment states. “Its absence cannot be used to defeat a wife's claim to maintenance.” Justice Shah further observes: “The husband's failure to facilitate *rukhsati* cannot be turned into a ground to deny maintenance. Such reasoning perpetuates gender injustice and undermines the constitutional promise of equality.”

In a rare and pointed critique of judicial discourse, the court censures the language used in the impugned High Court judgment, which stated that maintenance becomes the husband's responsibility “after crossing the barrier.” Justice Shah calls this formulation “deeply patriarchal” and urges



IMAGE: © COURTESY SCP

judges to adopt gender-sensitive, rights-based language.

“Judicial language carries normative force,” he writes. “It influences how justice is perceived, internalised, and practiced.” The court calls upon the judiciary to act as reformers and thought leaders, capable of guiding society toward progressive and inclusive thinking.

Applying these principles to the case at hand, the court finds that the petitioner’s entitlement to maintenance accrued upon the solemnisation of marriage and continued until the end of her *iddat* period. The respondent failed to provide a marital abode, made no arrangements for *rukhsati*, and did not fulfil his basic obligations. There was no evidence that the petitioner unjustifiably withdrew from the marital relationship.

The court sets aside Lahore High Court’s judgment, restores the District Court’s award of Rs. 5,000 per month,

and affirms maintenance for the *iddat* period. Justice Shah concludes: “The petitioner was denied her rightful claim based on a flawed understanding of Islamic law and statutory provisions. This judgment seeks to correct that error and reaffirm the constitutional promise of dignity and equality.”

In its concluding remarks, the court reflects on the institutional value of *amicus curiae* in constitutional adjudication. It praises the contributions of Professor El Fadl, Dr Abbasi, and Fatima Bokhari for anchoring the deliberations in global perspectives and normative clarity.

“The *amicus curiae* serve as a vital bridge between law and justice, local realities and global perspectives, the bench and the academy,” the judgment observes.

This judgment is more than a resolution of a matrimonial dispute; it is a jurisprudential manifesto. It reclaims Islamic

law from patriarchal misreadings, aligns statutory interpretation with constitutional values, and affirms the judiciary’s role in advancing gender justice.

In a society where economic dependence often fuels systemic injustice, the court’s affirmation of maintenance as an unconditional right is a powerful assertion of dignity, equality, and legal personhood.

Justice Shah’s closing words encapsulate the spirit of the ruling: “The Constitution is not a silent spectator to gender injustice. It is a living document that demands fairness, dignity, and equality in all spheres of life, including the intimate domain of marriage.”

As Pakistan’s legal community digests the implications of this ruling, one thing is clear: the jurisprudence of family law has entered a new chapter, one that centres the rights of women not as dependents, but as equal partners in the marital covenant. ■

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The Crucial Role of Law in

Combatting Climate Change

Pakistan's courts are redefining climate rights, stepping in where policy has stalled to enforce environmental justice through constitutional innovation.

This article delves into the intersection of climate change and the law, exploring whether Pakistan's legal framework is equipped to drive climate resilience or if the nation remains trapped in a cycle of reactive crisis management. Can legislation and judicial oversight steer Pakistan toward sustainability, or are we merely bracing for the next disaster?

IMAGE: © THE LEGAL





by **Mohammad Wamiq Anjum**

Advocate
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Climate change, no longer a distant threat, has emerged as Pakistan's gravest national challenge, demanding urgent legislative reform, firm enforcement, and public mobilisation to move beyond crisis response toward enduring climate resilience.

The nation has been battered by extreme weather events since February 2024. Torrential rains, catastrophic flooding, and lethal landslides tore through communities in Khyber Pakhtunkhwa, Punjab, and Balochistan. The human toll has

been staggering: hundreds of lives lost, thousands of homes obliterated, and entire districts submerged. Satellite imagery revealed thousands of kilometres under floodwaters, displacing millions of people and leaving a trail of devastation that underscored the urgency of systemic reform.

This latest episode is not an anomaly, it is a harbinger. Without a decisive shift from short-term mitigation to long-term adaptation, Pakistan risks being locked in a cycle of escalating climate emergencies. The imperative is clear: institutional resolve must match the scale of the threat.

In light of the increasing frequency of climate-related disasters, a critical question arises: Is Pakistan's legal and governance framework adequately equipped to tackle this crisis effectively? Globally, legal mechanisms, both at the domestic and international

levels, have emerged as vital instruments in advancing climate action, enforcing accountability for environmental stewardship, and urging governments and industries to take decisive action.

For a nation as susceptible to climate impacts as Pakistan, legislation, judicial oversight, and policy implementation transcend mere bureaucratic processes; they serve as the primary defence against a profound existential threat.

The Judiciary's Role

Ranked fifth on the [Global Climate Risk Index](#) and twenty-third on the [2024 INFORM Risk Index](#), Pakistan faces mounting threats from floods, droughts, and extreme weather events. Despite being a signatory to the [Paris Agreement](#), its climate policy remains hampered by weak enforcement and inadequate adaptation strategies. Where legislative inertia persists,



Pakistan's judiciary has emerged as a vital force in climate governance, interpreting constitutional rights to include environmental protection and compelling state action where governance has faltered.

Climate Justice in Action

In *Shah Zaman Khan v. Government of Khyber Pakhtunkhwa* (PLD 2023 SC 340), the Supreme Court reaffirmed the constitutional and moral imperative of forest conservation. The case involved private claims to protected forest land in Swat, which the Court rejected, citing the ecological role of forests as carbon sinks and buffers against floods and landslides. Drawing on Islamic principles of stewardship, the Court framed forest protection as a generational responsibility.

In *Collector of Customs v. Wasifullah* (2023 SCMR 503), the Court upheld tax exemptions for hybrid electric vehicles (HEVs), recognising them as essential to reducing Pakistan's carbon emissions. The judgment reinforced Pakistan's obligations under the Paris Agreement and prioritised environmental sustainability over bureaucratic constraints.

In *Public Interest Law Association of Pakistan (PILAP) v. Province of Sindh* (2023 SCMR 969), PILAP challenged the issuance of mining licences without environmental assessments. The Supreme Court ruled in favour of strict enforcement of Initial Environmental Examinations (IEEs) and Environmental Impact Assessments (EIAs), stressing that unchecked mining exacerbates climate risks and ecological degradation.

In *Muhammad Ayaz v. Government of Punjab* (2017 CLD 772), the Lahore High Court upheld the Punjab Environmental Protection Agency's authority to seal a polluting steel plant. Guided by the precautionary principle, the ruling affirmed that environmental justice is integral to fundamental rights, linking clean air and water directly to public health and sustainable development.

From Courtrooms to Statutes

While judicial activism has set vital precedents, Pakistan's climate resilience depends on robust statutory protections

Supreme Court blocked private claims to protected forest land, framing ecological preservation as a constitutional and moral duty.

and institutional mechanisms. The Pakistan Climate Change Act, 2017 established three key institutions. The Pakistan Climate Change Council (PCCC) (Section 3) is a multi-sectoral body tasked with strategic oversight. However, its infrequent meetings risk rendering it ineffective.

The Pakistan Climate Change Authority (PCCA) (Section 5(2)) is a corporate entity responsible for policy formulation and international collaboration. Bureaucratic delays and centralisation threaten its operational efficiency. The Pakistan Climate Change Fund (Section 12(2)) is designed to finance climate initiatives, though its reliance on government approval for foreign aid may hinder emergency responsiveness.

Complementary legislation includes the [Framework for Implementation of Climate Change Policy \(20142030\)](#), which provides a strategic roadmap for integrating climate priorities into national development. The [Global Change Impact Studies Centre Act, 2013](#) established a research centre to advise government and raise public awareness. The [National Water Policy, 2018](#) addresses water scarcity through sustainable resource management. The [Pakistan National Action Plan on SDG 12 \(2017\)](#) promotes sustainable consumption and production across sectors. The [Alternative and Renewable Energy Policy, 2019](#) aims to increase the renewable energy share to thirty percent by 2030.

In October 2024, Pakistan introduced Article 9A to its Constitution, guaranteeing the right to a clean, healthy, and sustainable environment. This enshrines environmental protection as a fundamental right, strengthening legal accountability and aligning domestic law with global climate norms.

Gaps and Challenges

Despite a comprehensive legal framework, Pakistan's climate

governance faces persistent challenges. Accountability loopholes remain, notably in Section 14 of the Climate Change Act, which grants immunity for actions taken in "good faith," a vague term that risks shielding negligence and mismanagement. Institutional inertia is evident in the PCCC and PCCA, which exist largely on paper. Without political will and consistent oversight, they risk becoming ceremonial bodies.

Financial mismanagement is a concern, as the Climate Change Fund lacks robust audit mechanisms, raising questions about resource allocation and transparency. Energy policy contradictions persist, with Pakistan's reliance on coal undermining its climate commitments. Accelerating the shift to renewables is essential to reconcile energy security with environmental goals. A deficit in public engagement further weakens climate governance. Without sustained civic pressure, climate laws risk becoming "dead letter regimes," legally valid but practically ineffective.

The Path Forward

Pakistan has laid the groundwork for climate governance, but laws alone cannot drive transformation. To move from symbolic commitment to substantive change, institutional accountability must be strengthened, regulatory bodies empowered with enforcement authority, and judicial decisions backed by statutory support.

Financial transparency must be ensured through independent audits and monitoring protocols for climate funds. The renewable energy transition must be accelerated with clear policy incentives and the phasing out of high-carbon infrastructure. Public advocacy must be mobilised through media, civil society, and grassroots movements to hold policymakers accountable and demand climate action.

The judiciary has played a pivotal role in bridging the gap between policy and practice. But enduring climate resilience will require a whole-of-society approach—anchored in law, driven by institutions, and sustained by public will. ■

Between Floods and Inaction:

Rethinking Climate Governance

Climate crisis demands urgent legal reform, as recurring floods expose the gulf between policy ambition and institutional paralysis



by **Ali Mohiuddin**

Advocate
Rawalpindi

Pakistan's latest climate disaster has laid bare a deeper crisis: not just environmental degradation, but a systemic failure of governance and law, as flash floods in 2025 ravage infrastructure and displace thousands across three provinces.

The catastrophic floods of 2022 had already exposed critical weaknesses in Pakistan's disaster management, urban planning, and environmental regulation. That year, millions were displaced and billions lost in economic damage. Yet, three years on, the country remains ill-prepared.

In 2025, cloudbursts and flash floods have once again devastated Khyber Pakhtunkhwa, Punjab, and Sindh, destroying homes, roads, and essential services. Thousands of families have been uprooted, and the scale of destruction underscores the urgency of institutional reform.

Despite contributing less than one percent to global emissions, Pakistan suffers disproportionately from climate-induced harm. This vulnerability stems from fragmented legal frameworks, weak institutional capacity, and chronic non-enforcement of environmental laws.

Climate change in Pakistan is no longer a distant threat, it is a present and escalating emergency. Law must now be recognised not merely as a regulatory mechanism, but as a transformative

Pakistan's 2025 floods expose a deepening climate crisis rooted in weak governance and legal inertia. Despite existing laws, poor enforcement and political apathy persist. Without urgent, transformative legal reform, the country risks perpetual disaster, constitutional violations, and the erosion of environmental and human security.

instrument capable of securing environmental justice, protecting fundamental rights, and guiding the nation toward a sustainable future.

The Ground Reality

The ground reality of climate change in Pakistan presents a stark reminder that environmental degradation now poses a direct threat to national survival. The floods of 2022 displaced over 33 million people and caused damages exceeding US\$ 30 billion. In 2025, cloudbursts have once again devastated communities, exposing millions to renewed displacement and economic hardship.

Agriculture, which employs nearly 40% of the population,



IMAGE: © THE LEGAL

faces existential threats from rising temperatures and erratic weather patterns. Simultaneously, water scarcity is emerging as a critical national security concern, with declining river flows and groundwater depletion exacerbating regional tensions.

Public health systems are buckling under the strain of recurring heatwaves, while urban centres remain dangerously ill-prepared for extreme weather events. The cumulative impact of these crises underscores the urgency of coordinated, cross-sectoral climate resilience.

Despite the existence of legal frameworks such as the Pakistan Climate Change Act, 2017 and the National Disaster Management Act, 2010, implementation has been lethargic, fragmented, and largely ineffective. Without structural reforms that embed climate resilience into every sector of governance, Pakistan risks being locked into a perpetual cycle of climate-induced disasters.

Existing Legal and Policy Framework

On paper, Pakistan has developed a multi-layered climate governance architecture. The Pakistan Environmental Protection Act, 1997 sets out environmental standards, while the National Disaster Management Act, 2010 established institutions to plan and coordinate responses to natural disasters. The Pakistan Climate Change Act, 2017 created both the Climate Change Council and the Climate Change Authority to steer national policy, supported by the National Climate Change Policy (2012, updated in 2021).

Pakistan's updated Nationally Determined Contributions (NDCs) pledge to transition to 60% renewable energy by 2030 and to reduce greenhouse gas emissions by up to 50%, contingent upon international financial support. More recently, the National Adaptation Plan (2023) and the "Living Indus" initiative have sought to embed climate resilience and nature-based solutions within the broader governance framework.

The judiciary has also played a pivotal role in advancing climate accountability. In *Asghar Leghari v. Federation of*



IMAGE © THE LEGAL

Pakistan (2015), the Lahore High Court held that governmental inaction on climate constituted a violation of fundamental rights under Articles 9 and 14 of the Constitution.

Yet, these achievements remain largely confined to paper. Policies and plans are seldom translated into binding regulations, and where legal instruments do exist, they suffer from weak enforcement and a chronic lack of political ownership.

Gaps and Weaknesses

A critical examination of Pakistan's climate governance reveals that the core crisis lies not in the absence of legislation, but in its failure in practice. While laws exist, their implementation remains sporadic and largely ineffective.

Environmental tribunals and provincial Environmental Protection Agencies (EPAs) are chronically underfunded and lack the requisite technical capacity, rendering enforcement a token exercise. The fragmentation of authority following the 18th Amendment has created overlapping jurisdictions, where responsibility is diffused and accountability elusive.

Despite Pakistan's stated commitments to renewable energy, coal-based projects continue to receive policy space, undermining long-term sustainability goals. Building codes and land-use regulations still fail to integrate climate resilience, leaving both urban and rural populations vulnerable to preventable losses during floods and heatwaves.

Even the judiciary's progressive interventions, such as those recognising climate inaction as a violation of fundamental rights, cannot substitute for systemic reform. Litigation remains slow, costly, and inaccessible to most citizens, limiting its effectiveness as a corrective mechanism.

In essence, Pakistan's environmental legal framework has not failed due to a legislative vacuum, but because of weak enforcement, institutional inertia, and a persistent lack of political will.

Comparative Perspectives

Comparative analysis with other jurisdictions highlights Pakistan's persistent shortcomings in climate governance. The European Union has institutionalised climate action through its Emissions Trading System, which enforces stringent emission caps and incentivises the adoption of clean technologies.

India, meanwhile, has empowered its National Green Tribunal to deliver swift and expert environmental adjudication, embedding principles such as "polluter pays" into legal practice. Bangladesh, facing similar climate vulnerabilities, has invested substantially in climate-resilient infrastructure, from cyclone shelters to embankments, underpinned by its Climate Change Strategy and Action Plan.

By contrast, Pakistan has yet to implement enforceable emission-reduction mechanisms, establish specialised climate courts, or integrate resilience into its infrastructure laws. The disparity is not merely a matter of resources, but of political will and institutional effectiveness.

Recommendations

To shift from reactive disaster management to proactive climate resilience, Pakistan must undertake urgent and comprehensive legal reform. The following measures outline a strategic framework for embedding climate preparedness across governance structures.

- ▶ **Climate-Resilient Infrastructure Law:** Pakistan should mandate flood-resistant construction, heat-resilient materials, and climate-sensitive urban planning through legally binding building codes and zoning regulations. Such legislation must be enforceable and integrated into both urban and rural development policies.
- ▶ **Green Taxation and Incentives:** A robust fiscal framework is needed to drive behavioural change. This includes introducing carbon levies and pollution fees, while simultaneously offering subsidies and concessional financing for renewable energy adoption and clean technology innovation.
- ▶ **Water Management Legislation:** To address growing water insecurity, Pakistan must regulate groundwater extraction, mandate rainwater harvesting, and establish an independent



IMAGE: © THE LEGAL

water regulator. Transparent allocation and equitable distribution should be central to this legal framework.

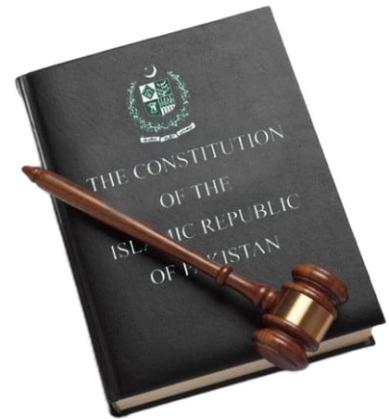
- ▶ **Disaster Risk Reduction Law:** Preparedness must be institutionalised through legislation that requires climate risk assessments for all public projects, embeds early warning systems, and ensures predictable financing for pre-disaster planning rather than post-disaster relief.
- ▶ **Specialised Climate Tribunals:** Dedicated judicial forums with technical expertise should be established to adjudicate climate-related disputes swiftly and provide effective remedies. These tribunals must be accessible and empowered to enforce compliance.
- ▶ **Public Participation Mechanisms:** Legal reform must guarantee meaningful community engagement, transparency in decision-making, and representation of vulnerable groups—including women, farmers, and indigenous communities—in climate governance processes.
- ▶ **Federal-Provincial Coordination:** Clearer demarcation of responsibilities between federal and provincial authorities is essential. Legislation should incentivise compliance with national climate goals through conditional fiscal transfers and performance-linked funding. ■

A Judiciary Unravelling

**The Superior Courts Are Engulfed by Internal Division
And Procedural Turmoil**



The government's flagship reforms to streamline Pakistan's justice system have backfired spectacularly, plunging the Supreme Court and Islamabad High Court into turmoil. The ensuing crisis has exposed a bitter conflict at the highest levels, pitting judicial independence against executive influence and leaving the legal profession deeply fractured and public confidence in sharp decline.



by **A Hussain**
Islamabad

The government's flagship reforms to streamline justice system have backfired spectacularly, plunging the Supreme Court of Pakistan (SCP) and Islamabad High Court (IHC) into a series of controversies that expose a bitter conflict between different arms of judiciary.

This legislative overhaul, the 26th Amendment and its aftermaths, has also precipitated a sharp erosion of public confidence. Citizens are increasingly alarmed by politicians' consolidated control over judicial appointments, bench composition and administrative discretion, areas that had hitherto been the exclusive preserve of senior jurists. The result is a palpable sense that the courts' autonomy has been compromised, with the legislature now wielding influence over decisions that shape the very fabric of judicial governance.

The situation has deteriorated to a point where the legal profession, once a formidable and unified institution, now lies bitterly divided. This internal schism mirrors the broader paralysis afflicting the entire justice system, as lawyers and judges alike struggle to reconcile their professional duties with the compromised judicial environment.

The recent barrage of controversies has been relentless. It spans from the controversial reassignment of IHC Judge Justice Saman Rafat Imtiaz and the petitions filed by five IHC judges to the Supreme Court, to the matter involving Justice Jahangiri and a tense courtroom confrontation at the IHC with Advocate Imaan Zainab Mazari. Collectively, these events have laid bare a profound institutional fragility.

In response to this escalating crisis, multiple constitutional petitions have been filed under Article 184(3) of the Constitution, challenging the very legality of the legislative overhaul. This provision grants the Supreme Court a unique, original jurisdiction to hear matters of "public importance with reference to the enforcement of Fundamental Rights."

A notable petition was lodged on September 4 by Mustafa Nawaz Khokhar, a former Senator and high court advocate representing Tehreek-e-Tahafuz-e-Aeen Pakistan (Movement to Protect the Constitution of Pakistan). Filed also under Article 184(3), the petition contended that the legislative changes, specifically the 26th Amendment and the Practice and Procedure Act 2023 (PAPA), constitute an undue intrusion into judicial administration by restructuring bench formation and case allocation without adequate safeguards for independence.

However, on September 19, the Registrar returned the petition to Khokhar's advocate-on-record, Syed Rifaqat Hussain Shah, on procedural grounds. The notice asserted that Khokhar had "not pointed out... what questions of public importance... are involved with reference to enforcement of any of the fundamental rights," and was impermissibly invoking the Court's extraordinary jurisdiction to redress an "individual grievance," citing the precedent of *Zulfiqar Mehdi vs. PIA (1998 SCMR 793)*. The Registrar concluded that the essential "ingredients" for invoking Article

The internal schism mirrors the broader paralysis afflicting the entire justice system, as lawyers and judges struggle alike.



IMAGE: © THE LEGAL

184(3) had not been satisfied.

Refusing to relent, Khokhar declared on X that this “amounts to undermining and closing the doors of justice,” vowing to file an appeal. His reaction highlights a growing frustration within the legal community that procedural technicalities are being used to avoid substantive engagement with fundamental questions of judicial autonomy.

Under mounting pressure, the Supreme Court’s Constitutional Bench Committee has now scheduled the pending challenges for hearing. An eight-member bench, led by Justice Aminuddin Khan, is set to convene on October 7. The bench includes Justice Shahid Bilal Hassan, who surprisingly disclosed his judicial leanings at a public forum in England. Notably, this is the same panel that last sat on January 27, adjourning the matter for three weeks before inexplicably leaving it off the list for over eight months.

Meanwhile, the IHC has been rocked by the controversy involving Advocate Imaan Mazari. During a hearing, Mazari allegedly referred to Chief Justice Sarfraz Dogar as a “dictator,” prompting immediate threats of contempt proceedings and escalating the situation far beyond a breach of courtroom decorum.

In response, Mazari filed a formal complaint under the Protection Against Harassment of Women at the Workplace Act, accusing the CJ of making gendered and threatening remarks. As the competent authority, Justice Saman Rafat Imtiaz of the IHC constituted a three-member inquiry committee, including herself and two senior puisne judges, Justices Arbab Muhammad Tahir and Sardar Ejaz Ishaq Khan. However, Justice Imtiaz was removed immediately from overseeing the complaint.

The decision to assign Justice Inaam Ameen Minhas at Justice Saman Imtiaz’s position, a move approved by CJ Dogar himself, has cast shadow over the inquiry’s credibility. Official statements have deferred any explanation, merely promising details “to be released separately” without providing a substantive rationale for the abrupt change. A reference, on the other hand, has also been filed with the Islamabad Bar Council seeking the permanent cancellation of Advocate Mazari’s licence, citing “anti-state activities” and alleged affiliations with banned organisations.

Chief Justice Dogar later attempted to defuse the situation by stating that Advocate Mazari was “like a daughter” and that his remarks had been misinterpreted. Yet, this paternalistic rhetoric did little to address the substantive concerns of Mazari’s complaint, and even less to restore confidence in the impartiality of the process.

This episode is inextricably linked to the broader controversy surrounding Justice Dogar’s own appointment as Chief Justice of the IHC. His elevation was preceded by a contentious reshuffling of the seniority list and the rejection of a formal representation filed by five sitting judges, who had questioned the legality and transparency of the process. Although a legal challenge to the



TL IMAGE: Courtesy Farooq Aqdas

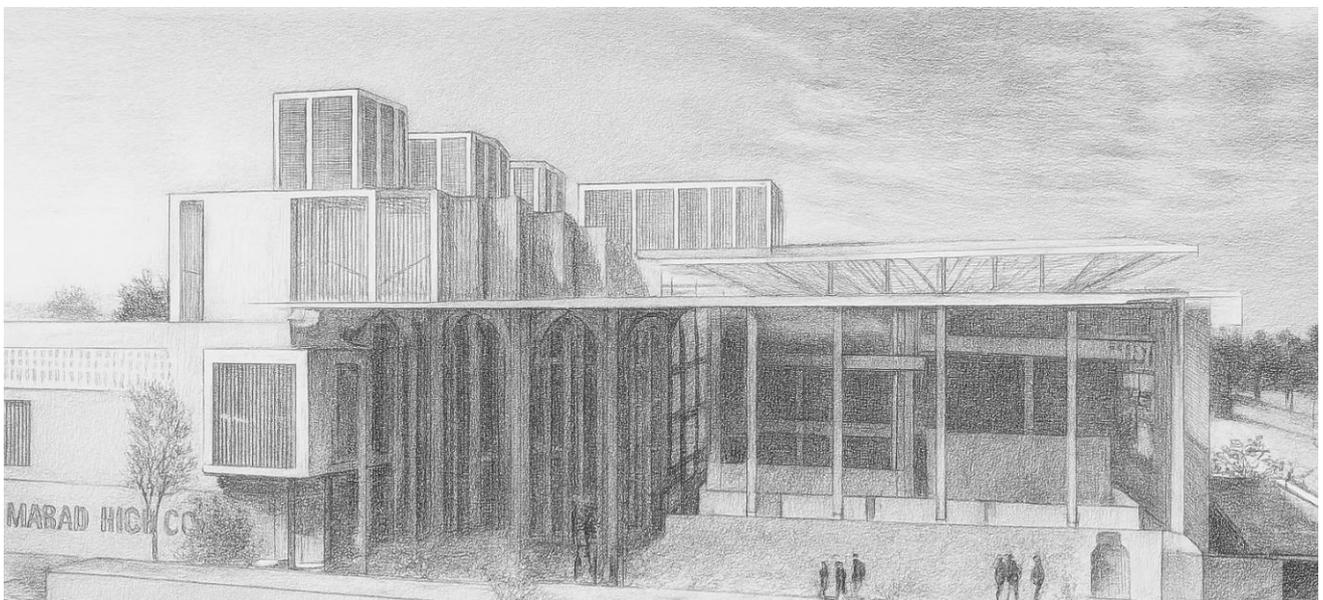


IMAGE: © THE LEGAL



IMAGE © THE LEGAL

appointment was ultimately dismissed, the judgement did little to dispel the perception of an institutional imbalance. Instead, it reinforced the view that internal dissent, even from senior judges, can be neutralised through procedural formalism.

The situation continued to smoulder and on September 22, it erupted into an unprecedented confrontation. Five sitting judges of the IHC, Justices Mohsin Akhtar Kayani, Babar Sattar, Tariq Mehmood Jahangiri, Sardar Ejaz Ishaq Khan and Saman Imtiaz, filed separate petitions in the Supreme Court under Article 184(3). They directly challenged CJ Dogar's administrative powers and his order barring Justice Jahangiri from his judicial duties.

In a move that has become familiar, the Supreme Court Registrar returned the petitions on procedural grounds, objecting that the judges had failed to specify a matter of "public importance" or identify infringed fundamental rights as required to invoke the court's original jurisdiction.

Nonetheless, the IHC administration, under CJ Dogar, proceeded to formally bar Justice Jahangiri from his duties pending an inquiry by the Supreme Judicial Council (SJC). This action ignited immediate outrage within the legal fraternity. The Islamabad Bar Council condemned the move as "the darkest day in

judicial history."

In a striking legal assessment, Barrister Sa'ad Rasool, a noted lawyer, has asserted that a serving judge of a superior court cannot be suspended or barred from judicial functions until formally removed from office by the SJC.

The barrister's comments, aired on a private satellite television, referenced a ruling by Justice Shoukat Aziz Siddiqui, who now sits on the SJC, in the case of *The State v. General Pervez Musharraf* (PLD 2016 IHC). In that judgement, Justice Siddiqui declared that any such act of impeding a sitting judge constitutes an "act of terrorism."

Barrister Rasool stated this position is firmly grounded in Articles 175 and 209 of the Constitution and is supported by three separate judgements over the past fifteen years, all confirming the move's illegality. He further highlighted the procedural irregularity of the case, noting that the petitioning advocate was absent and that proceedings were at a preliminary stage, with no substantive arguments having been heard.

The escalating crisis has now descended into physical confrontation, further tarnishing the dignity of the legal profession. A violent altercation erupted at the IHC between a group of lawyers and the President of the Bar Association himself, Wajid Gillani, during a protest against the suspension of Justice Jahangiri. In a stunning escalation, Gillani lodged a formal police complaint against approximately 60 of his colleagues.

The decision to register a case under terrorism charges, leading to police raids on several accused lawyers' residences, has been widely criticised. Commentators argue that an incident of this nature, while deeply regrettable, should have been contained and adjudicated through the legal community's own disciplinary forums, rather than being criminalised in a manner that exacerbates the profession's internal schisms.

In final analysis, the core conflict, pitting the principle of judicial independence against the reality of executive and legislative influence, has escalated from a war of words to a tangible breakdown of institutional integrity. This crisis has manifested on different critical fronts.

Ultimately, the saga of the 26th Amendment and PAPA is no longer merely about the laws' text, but about their corrosive effect on the foundations of judicial governance. The very mechanisms intended to protect the judiciary, the SJC, internal disciplinary forums, and constitutional petitions, appear to have been neutralised or bypassed. What remains is a palpable vacuum of authority and a grim perception that the rule of law is being supplanted by the rule of procedural force, leaving the sanctity of Pakistan's justice system hanging in the balance. ■

Justice with Integrity

A Barrister's Reflections on Law, Ethics, and Public Trust

TL Report

Lahore



Barrister Muhammad Ahmad Pansota is a distinguished legal practitioner known for his principled advocacy and commitment to public interest litigation. Beginning his career at Cornelius, Lane & Mufti, he later founded his own practice, guided by integrity, diligence, and respect for the law. He has appeared in landmark cases involving media freedom, harassment, and constitutional rights, often working pro bono to advance justice. As former Chair of PEMRA's Council of Complaints, he championed rights-based regulation. His legacy is rooted in fostering a legal culture of fairness, transparency, and ethical courage—where the law serves not just clients, but society at large.

Q: From your early years at Cornelius, Lane & Mufti to founding your own practice, what formative lessons shaped your legal approach?

A: Beginning my career at Cornelius, Lane & Mufti, among Pakistan's oldest and most esteemed law firms, instilled in me the value of discipline, diligence, and meticulous preparation. Working alongside seasoned practitioners taught me that a lawyer's credibility rests not only on legal knowledge, but equally on integrity and attention to detail. When I later founded my own practice, I carried these lessons forward: to approach every case with intellectual honesty, respect for the court, and unwavering commitment to my clients' causes.

Q: As counsel in cases like the Meesha Shafi matter and PEMRA petitions, how do you navigate public scrutiny while upholding your duty of legal representation?

A: High-profile cases such as the Meesha Shafi matter or constitutional petitions involving PEMRA (Pakistan Electronic Media Regulatory Authority) attract intense public scrutiny. The key lies in separating courtroom strategy from media narratives. My focus remains firmly on the law, the facts, and the ethics of representation, never on public perception. It is vital to stay grounded; clients rely on you for clarity and objectivity, particularly when emotions run high.

Q: How can lawyers in sensitive cases, like harassment or free expression, safeguard their clients while contributing to public discourse?

A: Lawyers handling sensitive matters, whether involving harassment, freedom of expression, or fundamental right, must first safeguard their clients' legal protection and dignity. At the same time, such cases often raise issues that extend beyond the courtroom. Through well-reasoned advocacy and respect for constitutional principles, lawyers can help shape public understanding. This must be done without resorting to sensationalism. In doing so, they foster a culture in which justice and rights are openly discussed, yet responsibly upheld.

Q: You've pursued public interest litigation on issues like food security, transgender rights, and constitutional freedoms, often pro bono. What drives this work, and do you see PIL remaining a vehicle for social justice in Pakistan?

A: My involvement in public interest cases, whether concerning food security, transgender rights, or constitutional freedoms, stems from a belief that lawyers have a duty beyond commercial practice. Pro bono work is about giving voice to those who might otherwise be denied access to justice. Public Interest Litigation in Pakistan has a promising future. It will remain a vital instrument for



social justice, provided it is employed responsibly and the courts prioritise systemic reform over temporary remedies.

Q: As former Chair of PEMRA's Council of Complaints, how should Pakistan balance media regulation with press freedom?

A: As Chairperson of PEMRA's Council of Complaints, I learned firsthand that Pakistan requires a delicate balance: regulation must curb hate speech, defamation, and disinformation, yet must never slip into censorship. The aim should be transparent, rights-based oversight, where freedom of expression is the default and restrictions are the exception, applied strictly within constitutional bounds.

Q: What advice would you offer young lawyers on building integrity and credibility in the profession?

A: For aspiring lawyers, my advice is straightforward: integrity and credibility are non-negotiable. Be honest with your clients about the strengths and weaknesses of their case. Prepare thoroughly, respect deadlines, and never sacrifice ethics for short-term gain. A lawyer's reputation rests on competence, character, and consistency, qualities that take years to build but can be lost in an instant.

Q: What legacy would you most wish to leave the legal profession in Pakistan?

A: If I could leave behind one legacy, it would be to help shape a legal culture grounded in constitutionalism, rights, and ethics. I would want future lawyers to view the law not merely as a profession, but as a vehicle for justice and societal progress, where public trust in the legal system is strengthened through fairness, transparency, and courage. ■



Autonomy Under Siege

Indian Supreme Court's partial relief fails to shield Muslim institutions from structural encroachment, raising constitutional and communal alarm

TL
Analytica

Indian Supreme Court's interim ruling on the Waqf (Amendment) Act, 2025 offers limited judicial relief while endorsing a legislative framework that centralises control over Muslim religious trusts. By legitimising executive oversight and weakening denominational autonomy, the judgment risks undermining constitutional protections for minority institutions. It sets a troubling precedent in India's secular order, where religious self-governance is no longer assured but subject to state discretion and procedural ambiguity.

Indian Supreme Court's recent judgment has set a dangerous precedent in a pluralistic society, as the ruling affirms the state's prerogative to restructure minority institutions under the guise of transparency and efficiency. This establishes a troubling framework in which religious autonomy is rendered conditional rather than inherent.

The [interim judgment](#) on the contentious Waqf (Amendment) Act, 2025, delivered on September 15, has stirred both relief and unease across India's Muslim community. While the Court stayed several provisions it deemed "*prima facie* arbitrary," it upheld the broader framework of the legislation, leaving unresolved concerns about minority autonomy, religious rights, and institutional integrity.

The 128-page ruling, authored by Chief Justice B.R. Gavai and Justice A.G. Masih, comes amid a wave of litigation (more than 100 petitions) challenging the constitutional validity of the Act. The petitioners, comprising Muslim organisations, legal scholars, and civil society actors, argue that the law undermines the historical and religious character of Waqf institutions and facilitates executive overreach into community affairs.

The Waqf (Amendment) Act, 2025 introduces sweeping changes to the existing framework. Among its most controversial provisions are:



- A requirement that individuals seeking to create a Waqf must prove they have practised Islam for at least five years.
- A clause allowing Waqf properties to lose their status if any doubt is raised about their ownership, particularly if suspected to be government land.
- Provisions enabling unilateral alteration of revenue and Waqf Board records by designated officers and State governments.
- Removal of protections for “Waqf by user,” a category encompassing age-old religious sites without formal deeds.
- Expansion of non-Muslim representation on Waqf Boards and Councils.

These changes, critics argue, represent a fundamental shift from community-led governance to bureaucratic control, with serious implications for religious freedom and minority rights. In its interim ruling, the Supreme Court struck down or stayed several provisions of the Act, while upholding others. The Court held that:

- The requirement to prove five years of Islamic faith was arbitrary in the absence of a clear mechanism to verify such claims. The provision was shelved until the government devises a suitable procedure.
- The clause in Section 3C allowing Waqf properties to lose their status based on mere suspicion was “totally unconstitutional.” The Court emphasised that title determination is a judicial function and cannot be usurped by the Executive.
- The unilateral alteration of records by State authorities was stayed. The Court directed that no dispossession or record changes should occur until the Waqf Tribunal adjudicates the matter.
- The number of non-Muslim members on Waqf Boards and Councils must be limited, no more than four out of 22 on the Central Waqf Council, and three out of 11 on State Boards. Chief Executive

What Is Waqf?

Waqf refers to a permanent dedication of property, typically for religious, educational, or charitable purposes, under Islamic law. In India, Waqf properties range from mosques and dargahs to schools, graveyards, and orphanages. The Waqf Act of 1995 established Central and State Waqf Boards to oversee these assets, ensuring their protection and proper utilisation.

Historically, Waqf institutions have operated as semi-autonomous bodies, with community-led governance and limited state interference. However, successive governments have periodically amended the Act, citing administrative inefficiencies and corruption. The 2025 Amendment marks the most radical overhaul yet, centralising control and introducing provisions that critics say dilute the community’s role.

Legal analysts argue that the Amendment infringes upon the rights of religious minorities to manage their own institutions—a principle upheld in multiple Supreme Court judgments, including *Azeez Basha v. Union of India* and *S.P. Mittal v. Union of India*. The petitioners contend that the Act violates the spirit of Article 26(b), which guarantees religious denominations the right to manage their own affairs in matters of religion.

Officers must be Muslim “as far as possible.”

However, the Court refused to stay the Act in its entirety, citing the presumption of constitutionality that attaches to parliamentary legislation. It also upheld the mandatory registration of Waqfs, including the exclusion of “Waqf by user,” arguing that historical neglect of registration obligations cannot justify continued exemption.

The Muslim community remains deeply concerned. The judgment, though measured, does not address the broader anxieties about the centralisation of Waqf governance and the dilution of religious oversight.

The Supreme Court’s judgment attempts to strike a balance

between legislative deference and minority protection. By staying certain provisions, such as the arbitrary five-year faith requirement and the executive power to denotify Waqf properties, the Court acknowledges constitutional overreach. Yet, its refusal to stay the Act in full, despite recognising prima facie violations, signals a cautious, arguably evasive posture. This restraint may be read as judicial conservatism, but it also risks legitimising a legislative framework that structurally weakens minority autonomy. The Court’s invocation of the “presumption of constitutionality” feels inadequate when weighed against the historical vulnerability of Waqf institutions and the



Minority Persecution

The Waqf (Amendment) Act, 2025 marks a new phase in the Hindutva-led campaign to capture and dismantle Muslim religious endowments. Presented as reform, the legislation enables executive control over centuries-old Waqf properties, stripping communities of autonomy and rendering sacred sites vulnerable to reclassification and dispossession.

The legislation aligns with the BJP-led government's broader ideological project to reshape India's secular fabric through majoritarian assertion.

Since the BJP came to power in 2014 under Prime Minister Narendra Modi, Hindutva-inspired aggression against minorities has intensified. Rooted in the RSS's vision of a Hindu Rashtra, this campaign marginalises Muslims, Christians, and Dalits.

The 2019 Citizenship Amendment Act, fast-tracking citizenship for non-Muslim refugees, was condemned for institutionalising religious bias. Coupled with the proposed National Register of Citizens, it stoked fears of disenfranchisement among Muslims.

In 2020, the Delhi riots, sparked by anti, CAA protests—left over 50 dead, mostly Muslims. Independent reports cited police complicity and targeted violence.

In 2023, communal unrest in Haryana's Nuh district saw mosques vandalised and homes torched. In Manipur, Christian villages were razed and women assaulted.

State institutions have been weaponised to target Muslim scholars and activists under anti-terror laws. Bulldozer demolitions of Muslim-owned properties—often without due process, have become symbolic of state-backed retribution.

Hindutva leaders continue to incite violence, while international watchdogs warn of democratic backsliding. India's constitutional protections for minorities now stand at a perilous crossroads.



community's limited recourse. The inclusion of non-Muslims on Waqf Boards and the dilution of religious qualifications for key posts, though capped by the Court, still represent a departure from the principle of denominational self-governance enshrined in Article 26(b). The judgment's language – “as far as possible” – is troublingly vague, leaving room for future reinterpretation or circumvention.

In effect, the ruling affirms the state's prerogative to restructure minority institutions under the guise of transparency and efficiency. This sets a precedent where religious autonomy is conditional, not inherent, a dangerous proposition in a pluralistic democracy.

The Court's decision cannot be divorced from its political context. The Amendment was passed without meaningful consultation, amid growing centralisation of minority affairs. The judiciary's reluctance to fully confront this

context, its silence on the Act's ideological undercurrents, may reflect institutional caution, but it also deepens mistrust among affected communities.

For Muslims, Waqf properties are not merely legal entities, they are repositories of faith, memory, and social welfare. The judgment, while procedurally sound in parts, fails to engage with this lived reality. It treats the issue as a technical dispute, not a constitutional reckoning.

The judgment was an opportunity to reaffirm the constitutional compact between state and minority. Instead, it offers fragmented relief, staying the most egregious provisions but leaving the broader architecture intact. It neither dismantles the Amendment's centralising thrust nor fully protects the community's right to self-governance.

In editorial terms, it's a judgment that edits the margins but leaves the problematic headline untouched. ■

FOCUS

A Tragic Breach of Duty

The Case of Surjit Singh and the Murder of Mohinder Kaur

by *Mark Adgar*
London

A Handsworth man has been gaoled for life for murdering his 76-year-old mother during a dispute over a television remote control.

Surjit Singh, 39, was sentenced for the brutal killing of Mohinder Kaur at their shared home in Birmingham last year in September. The case has sent shockwaves through legal and social circles, prompting intense scrutiny of carer responsibilities and mental health support systems. It has also forced a re-examination of how the criminal justice system handles incidents of domestic, intra-familial violence.

Singh, who had long served as his mother's sole carer following the death of his father in 2014, pleaded guilty to murder at an earlier hearing. On September 12, 2025, Birmingham Crown Court imposed a life sentence with a minimum term of 15 years before parole eligibility. The sentencing judge, Justice Simon Drew KC, described the attack as "sustained" and "terrible," noting bloodstains throughout the house and the victim's desperate attempts to protect herself.

The court heard that Singh, intoxicated by a lethal mix of alcohol and cocaine, flew into a rage when his mother criticised his condition and took the television remote control. He chased her through the house, repeatedly kicking and stamping on her, inflicting fatal injuries to her head, neck, and limbs. A post-mortem confirmed blunt force trauma as the cause of death.

Singh's history of erratic and violent behaviour was well-documented. Prosecutor Michelle Heeley KC revealed that Singh had previously threatened to "smash [his mother's] lights out" and had confessed to slapping her. In November 2023, he contacted the NHS 111 helpline, admitting to pulling her hair and expressing mental health struggles. On the day of the murder, Singh had thrown bricks into his brother's garden during a separate altercation, and later phoned his sister to say, "I've killed your mum".

In mitigation, defence counsel Zafar Ali KC argued that Singh was suffering from a mental disorder and had been thrust into the role of carer without support. "He did not volunteer to be his mother's sole carer," Ali said. "The other siblings went on to lead lives on their own. He developed severe alcohol dependency and regularly used cocaine".

The case raises pressing questions about the adequacy of mental health support for informal carers, especially those dealing with substance abuse and familial trauma. Singh's background, marked by domestic abuse from his father, suggests a cycle of violence that went unaddressed until it culminated in tragedy. Legal experts have pointed to the need for earlier intervention and more robust safeguarding mechanisms.

Detective Inspector Nick Barnes of West Midlands Police called the killing "senseless" and emphasised the devastating impact on the family and community. The incident also highlights the growing prevalence of elder abuse within domestic settings.



Surjit Singh

According to recent Home Office data, parent-on-child and child-on-parent violence now accounts for a significant proportion of domestic abuse cases, with many incidents going unreported due to familial stigma and dependency.

From a legal standpoint, Singh's conviction underscores the judiciary's firm stance on domestic homicide, particularly where the victim is vulnerable and the perpetrator is in a position of trust. The sentencing reflects aggravating factors including the sustained nature of the attack, the victim's frailty, and the breach of caregiving duty. While mental health and substance abuse were considered in mitigation, they did not outweigh the gravity of the offence.

The Crown Prosecution Service (CPS) has reiterated its commitment to prosecuting domestic violence cases with vigour, regardless of familial ties. In a statement following the verdict, a CPS spokesperson noted: "This case demonstrates the tragic consequences of unchecked violence within the home. We hope the sentence brings some measure of justice to the family of Mrs Kaur."

Legal commentators have also drawn attention to the role of pre-trial admissions in streamlining proceedings. Singh's guilty plea spared the family the ordeal of a full trial, but it also limited public scrutiny of systemic failures that may have contributed to the crime. As such, the case is likely to fuel debate within legal and policy circles about the intersection of criminal liability, mental health, and carer support.

In the aftermath of the sentencing, advocacy groups have called for a national review of carer safeguarding protocols and better integration of mental health services with social care. The Singh case, while uniquely tragic, is emblematic of broader structural issues that demand urgent attention.

For now, Surjit Singh begins his life sentence, and the legal community is left to reckon with the profound implications of a crime that unfolded not in the shadows of society, but within the walls of a home. ■

US Supreme Court

Prisoner Rights Curtailed

Bench confirms Bivens remedy unavailable for prison based excessive force claims, urging Congress to provide statutory compensation for federal inmates.

Goldey, Associate Warden v Fields

606 US 942 (2025)

by **Laura Jennifer**
Washington DC

In a per curiam ruling, the US Supreme Court held that federal inmates cannot pursue Eighth Amendment excessive force damages under Bivens against prison officers, deeming it a new context with special factors, and emphasising that only Congress may authorise remedies.

Case Summary

In *Goldey, Associate Warden v Fields*, the Supreme Court of the United States considered whether federal prisoners may bring an implied cause of action under *Bivens v Six Unknown Fed Narcotics Agents* for damages arising from alleged Eighth Amendment excessive-force violations by prison officers. Petitioner Andrew Fields challenged his treatment in solitary confinement at the United States Penitentiary in Lee County, Virginia, alleging that prison officers physically abused him during routine checks. The District Court dismissed his claim for lack of a Bivens remedy, but the Fourth Circuit reversed. The Supreme Court granted certiorari and ultimately reversed the Fourth Circuit, [concluding](#) that Bivens does not extend to this context.

Factual Background

Andrew Fields, serving a federal sentence at the Lee County penitentiary, was ordered into solitary confinement. During his isolation, routine welfare checks were conducted by prison officers. Fields alleged that on multiple occasions these officers used excessive physical force against him, inflicting injuries and violating the Eighth Amendment's prohibition against cruel and unusual punishment. He sought monetary compensation from the Bureau of Prisons, the prison warden, and individual prison officers, claiming that the Constitution itself provided an implied cause of action for damages.

Procedural History

Fields filed suit in the United States District Court for the Western District of Virginia. The District Court dismissed his complaint, holding that no statutory or implied remedy existed under Bivens for an Eighth Amendment excessive-force claim against federal prison officers. Fields then appealed to the Fourth Circuit. That court, in a divided decision, held that the case presented no special factors counselling against recognising a Bivens remedy and permitted Fields's claim to proceed. The dissenting judge argued that the Supreme Court's precedents compelled rejection of any new Bivens context.

Issue

The primary question before the Supreme Court was whether the Court should extend the Bivens remedy to permit federal inmates to recover damages for alleged Eighth Amendment excessive-force violations by prison officers. Specifically, the Court examined

whether this claim arose in a new Bivens context and, if so, whether special factors counselled against judicial creation of such a remedy.

Legal Framework

In *Bivens v Six Unknown Fed Narcotics Agents*, 403 US 388 (1971), the Supreme Court recognised an implied cause of action under the Fourth Amendment for damages against federal officers. The Court later extended Bivens to two additional contexts. However, since 1980 it has declined more than ten times to expand Bivens further. Under modern precedent, courts apply a two-step inquiry:

- First, whether the claim arises in a new context meaningfully different from the three established cases.
- Second, if it is a new context, whether special factors exist indicating that only Congress should create a damages remedy.

This approach emphasises separation-of-powers concerns and the judiciary's deference to legislative policymaking.

Supreme Court's Holding

By *per curiam* opinion, the Supreme Court reversed the Fourth Circuit. The Court held that Fields's Eighth Amendment excessive-force claim arises in a new Bivens context and that special factors counsel against judicial recognition of an implied cause of action. Consequently, prisoners cannot obtain damages under Bivens for excessive-force claims against

federal prison officers.

Reasoning

The Court emphasised that recognising new Bivens remedies is a disfavoured judicial activity. It highlighted Congress's active role in prisoner litigation, noting numerous statutes and regulatory processes addressing prisoner grievances yet no statutory cause of action for money damages. Extending Bivens here risked adverse practical consequences for prison administration, where decisions often require deference to wardens. Running a penitentiary presents inordinately difficult tasks; overlaying a damages remedy could impair disciplinary and security protocols.

Moreover, the Court pointed to existing alternative remedial structures for federal inmates, including administrative grievance procedures and statutory avenues against private entities. Even if these alternatives are less effective than a direct damages remedy, their presence counsels against judicially crafting a Bivens action. The opinion reaffirmed that prescribing new causes of action is a task for Congress, not the judiciary.

Significance and Implications

Goldey v Fields cements the Supreme Court's reluctance to expand Bivens beyond its narrow trilogy of precedents. Federal prisoners alleging constitutional violations by Bureau of Prisons staff must rely on existing statutory mechanisms and administrative remedies. This decision highlights the Court's commitment to separation of powers and its hesitation to infuse the judicial role with policy judgments better suited to legislative bodies.

The ruling may prompt calls for Congress to enact explicit statutory causes of action for monetary relief in cases of constitutional violations by federal prison officials. In the absence of such legislation, potential claimants will find no judicially implied path to damages under the Eighth Amendment. *Goldey* therefore represents a clear reaffirmation that the judiciary will not assume legislative functions, directing prisoners and their advocates to seek redress through legislative or executive channels. ■

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THE LEGAL
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Digital Inheritance

The Age of Social Media Wills

As digital wealth reshapes legacy, Pakistan must reconcile Islamic inheritance law with emerging technologies to ensure justice, clarity, and inclusion for all heirs.

Pakistan's inheritance laws face urgent reform as digital assets challenge classical frameworks. From cryptocurrency to social media income, legal ambiguity risks disinheritance, especially for women. A fusion of Sharia principles, tech literacy, and legislative clarity is vital for equitable succession.

by **Sarmad Mahmood Chechi**

Advocate
Lahore

Pakistan's inheritance laws, rooted in Quranic tradition and shaped by statutory precedent, now face a defining challenge as digital assets reshape the boundaries of legacy and legal entitlement.

The inheritance framework draws its legitimacy from the Quranic injunctions of *Surah An-Nisa* (4:11–12), further codified through key statutes including the Muslim Family Laws Ordinance (MFLO) 1961, the Succession Act 1925, and, in specific jurisdictions, the West Pakistan Muslim Personal Law (*Shariat*) Application Act, 1962.

These legal instruments have long governed the division of tangible assets, land, gold, currency, with procedural clarity and religious fidelity.

However, the emergence of digital wealth, cryptocurrency, monetised social media accounts, non-fungible tokens (NFTs), and cloud-based intellectual property, has exposed critical gaps in the existing legal architecture. These assets defy conventional valuation and physical possession, raising complex questions about ownership, access, and posthumous transfer.

In *Gul Hassan Khan v. Government of Pakistan* (PLD 1980 Peshawar 1), Justice Abdul Hakeem Khan presciently argued for “strategic Islamization” to ensure Islamic jurisprudence remains responsive to evolving societal contexts. Today, that imperative finds its most urgent application in the governance of digital legacies, where faith-based legal principles must reconcile with decentralised technologies and transnational platforms.

A Legal Vacuum

Islamic inheritance law (*Fara'id*) prescribes fixed shares for heirs, as delineated in the *Qur'an*. However, digital assets occupy a legal grey area. Cryptocurrency, for instance, challenges the classical notion of *māl* (wealth). Although the State Bank of Pakistan (SBP) issued a circular in 2018 prohibiting the use of virtual currencies (BPRD Circular No. 03 of 2018), scholars affiliated with the Shariyah Review Bureau and AAOIFI (Accounting and Auditing Organisation for

Islamic Financial Institutions) contend that such assets may be Sharia-compliant, provided they are free from *riba* (interest), *gharar* (excessive uncertainty), and possess intrinsic value.

Social media platforms introduce an additional layer of legal complexity. Under Section 2(f) of the Electronic Transactions Ordinance 2002, data and digital records may carry legal significance. When monetised, platforms such as YouTube and TikTok can generate revenue streams that arguably constitute intellectual property or digital income. These may fall within the scope of estate assets under Section 3 of the Succession Act 1925, which adopts a broad definition of “property”.

The Conflicts

A notable precedent was established in Germany's 2024 Instagram ruling by the Oldenburg Higher Regional Court, which granted a widow access to her deceased husband's account, overriding Meta's memorialisation policy. The judgment reflected an implicit recognition of the heir's entitlement to digital property, a concept mirrored in Islamic inheritance law, which emphasises prompt and equitable distribution (*Surah Al-Baqarah* 2:180).

Nonetheless, judicial inconsistency persists across Muslim jurisdictions. In Malaysia, a Sharia court confronted with a case involving a \$500,000 inaccessible Bitcoin wallet classified the asset as “abandoned property” (*māl matrūk*), redistributing it according to residuary rules.

This approach circumvented faraid-mandated shares and drew widespread criticism from legal scholars for contravening the fixed entitlements prescribed in *Surah An-Nisa*.

Likewise, in a 2021 case reported in the Pakistan Law Journal (PLJ 2021 Lahore 395), a dispute concerning access to a deceased individual's monetised Facebook page was dismissed on technical grounds, owing to the absence of digital asset recognition under prevailing Pakistani law.

Gender Disparity and Rural Realities

Although Article 25 of Pakistan's Constitution guarantees equality before the law, entrenched cultural norms frequently override formal legal protections. A 2023 field study conducted by the Shaikh Ahmad Hassan School of Law at LUMS revealed that 70% of women in rural Punjab relinquished claims to both tangible and digital assets under familial pressure. In the absence of legal clarity surrounding digital inheritance, such trends are likely to intensify.

Islamic jurisprudence accords women definitive shares, for instance, half of what a male sibling receives, yet widespread digital illiteracy and the lack of enforcement mechanisms contribute to systematic disinheritance.

Legal Reforms

To bridge the widening gap between classical Islamic inheritance principles and the realities of digital wealth, a series of targeted legal reforms is urgently required.

First, the Electronic Transactions Ordinance 2002 should be amended to explicitly classify digital assets, such as cryptocurrency, non-fungible tokens (NFTs), and monetised social media accounts, as inheritable property. In parallel, digital credentials including private keys and passwords must be accorded legal protection and recognised as transmittable components of an estate.

Second, revisions to the Muslim Family Laws Ordinance (MFLO) 1961 and the Succession Act 1925 are necessary to accommodate digital wills. These instruments should permit testamentary bequests of up to one-third of the estate

to non-heirs or charitable causes, in line with Sharia limitations. Additionally, procedural rules must be introduced to facilitate the verification and distribution of digital estates.

Third, the concept of "Digital Trusteeship" should be formally integrated into estate law. This would involve appointing tech-literate executors or trustees to manage digital assets during the administration process. Legal standing for such trustees should be established under Section 192 of the Succession Act 1925, ensuring their authority is both recognised and enforceable.

Finally, meaningful engagement with religious and civil society stakeholders is essential. Collaboration with Ulema-e-Ikram, non-governmental organisations, and legal aid clinics can help raise public awareness around digital estate planning. Particular emphasis should be placed on encouraging individuals to include digital credentials in their documented wills, thereby safeguarding access and ensuring equitable distribution.

As the Federal Shariat Court once observed, "Laws must evolve to reflect divine justice in changing times." It is no longer sufficient to rely solely on analogue-era frameworks for inheritance. Pakistan stands at a pivotal juncture, it can either fall behind or take the lead in crafting a digitally robust, Islamically aligned legal system.

By integrating blockchain innovation, progressive legislative reform, and Sharia-compliant estate planning, the country can transform the uncertainties of the digital afterlife into a structured and equitable process. Proactive engagement by lawmakers, technology firms, scholars, and families is essential, not merely to avert future litigation and familial discord, but to uphold the enduring Qur'anic principle of justice for all heirs.

With deliberate foresight and inclusive reform, Pakistan has the opportunity to set a compelling precedent for the Muslim world: a nation that honours tradition while embracing modernity with wisdom and fairness. ■

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The Role of Youth in Politics

From Marginalisation to Mobilisation



by **Wafa Sarfraz**
Law Student
Muzaffargarh

Pakistan's youth, comprising the majority of its population, have emerged as a potent yet marginalised political force. Their digital activism and electoral engagement signal a demand for reform, but structural barriers continue to hinder their full participation in democratic life.

With nearly two-thirds of Pakistan's population under the age of twenty-nine, the country stands as one of the youngest nations in the world, yet its youth remain politically marginalised and structurally disenfranchised.

Despite their demographic dominance, the political socialisation of Pakistan's youth is far from complete. What engagement exists is often superficial, shaped more by electoral expediency than by sustained institutional inclusion. Political parties have at times mobilised young people as a tool for vote-bank politics, while youth-led activism has occasionally veered into violence under the banner of reform.

The question of youth participation in Pakistani politics demands more than statistical recognition. It requires a deeper inquiry into historical patterns of mobilisation, the self-perception of young citizens, and the systemic barriers that inhibit their democratic agency. Only by addressing these foundational issues can Pakistan begin to transition towards a more inclusive and participatory political culture.

Young people have long secured their place within Pakistan's demographic mainstream. According to the Pakistan Bureau of Statistics' Census Report 2017, over 60% of the population is under the age of 30, with nearly 30% falling between the ages of 15

and 29. This youthful majority is not merely a statistical feature, it represents a potential political force capable of shaping national outcomes.

From an electoral standpoint, the significance of this demographic is undeniable. The Election Commission of Pakistan reports that approximately 46% of voters who cast their ballots in the 2018 General Elections belonged to the 18–35 age group. In theory, such a bloc should command high priority in national politics. In practice, however, youth participation has remained marginal, with little meaningful voice in mainstream political discourse.

While youth wings of major political parties have existed, such as the Muslim Students Federation (Pakistan Muslim League-Nawaz) and the People's Youth Organisation (Pakistan People's Party), they have largely functioned as instruments of mass mobilisation rather than platforms for leadership development or policy engagement. These wings have served more as symbolic extensions of their parent parties, tasked with rallying electoral support rather than cultivating independent political vision or influence.

The situation is no different among smaller parties, where young activists are often visible at rallies, waving flags and chanting slogans, yet remain absent from substantive policy-making processes.



Representation, where offered, tends to be tokenistic, part of a broader pattern of exclusion that has long characterised the relationship between Pakistan's youth and its political elite.

It has been repeatedly demonstrated that when mass political mobilisation is possible, Pakistan's youth can decisively influence the country's political trajectory. The 2018 General Elections offered a vivid example, as young voters rallied behind Pakistan Tehreek-e-Insaf (PTI) under Imran Khan's leadership. This was not merely an electoral preference, it reflected a generational rejection of *status quo* politics and a demand for accountability, transparency, and meritocracy.

The engine of this mobilisation was digital media. Unlike the patronage networks of PML-N and PPP, PTI harnessed platforms such as Twitter, Facebook, and Instagram to galvanise urban youth. Hashtag campaigns, viral content, and livestreamed rallies created immediacy and engagement for a generation raised on digital activism. This marked a leap beyond the confines of campuses and localities into a virtual political arena where narratives are shaped in real time and mobilisation transcends provincial boundaries.

Yet youth mobilisation is not new to Pakistan. The student movements of the 1960s, led by the National Students

Federation and others, mounted significant resistance against the Ayub regime. In the 1970s, students played a central role in ideological debates around democracy, socialism, and authoritarianism. This tradition was abruptly halted in 1984 when General Zia-ul-Haq banned student unions, silencing a generation of organised political leadership. Since then, campuses have been depoliticised, replacing ideological engagement with apathy, alienation, and sporadic violence. Although calls for the revival of student unions have resurfaced, successive governments have resisted, fearing the resurgence of organised student power.

Despite this repression, youth-led movements continue to shape political discourse. Groups like the Progressive Students' Collective have revived student political culture, advocating for union restoration, improved educational infrastructure, and campus democratisation. These efforts affirm that Pakistani youth are not disengaged, they are actively seeking alternative spaces for political expression in a system that often seeks to exclude them.



Nevertheless, the broader political landscape remains inhospitable. Dynastic politics continues to dominate, limiting leadership opportunities for those outside elite families. Low levels of civic education leave many young voters vulnerable to personality cults and populist rhetoric devoid of substantive policy. This disillusionment is compounded by a severe employment crisis, with millions of qualified graduates unable to secure decent jobs. In such conditions, many young people retreat from politics, overwhelmed by economic hardship, migration pressures, or the pursuit of precarious entrepreneurial paths. This creates a paradox: the most populous demographic is also the most politically powerless.

Yet the potential is immense. If Pakistan is to evolve into a truly participatory democracy, youth integration must be central, not incidental. Reviving student unions would offer formal platforms for leadership development. Incorporating civic education into curricula could cultivate politically literate citizens. Political parties must move beyond tokenism to nurture a new generation capable of dismantling patronage, dynasticism, and corruption.

In Pakistani politics, youth do not occupy a fixed or guaranteed space. They are neither passive bystanders nor inevitable revolutionaries, their influence depends on the arenas they can access. The 2018 elections demonstrated their capacity to shift political outcomes. Conversely, the continued ban on student associations reflects the state's deep-seated anxiety about organised youth power. If this demographic majority remains excluded, Pakistan risks squandering its most vital resource. But if empowered meaningfully, youth could transform demographic strength into democratic renewal, ushering in a politics defined by inclusion, participation, and forward-looking reform.

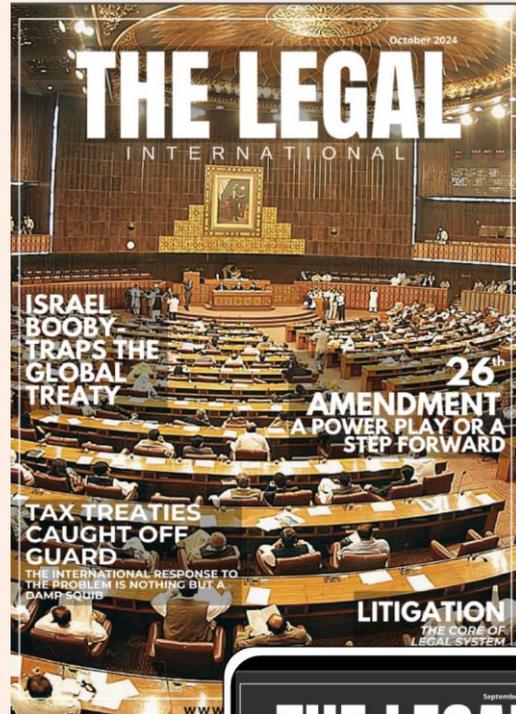
The question is no longer whether the youth will mobilise, they have, time and again, demanded justice, accountability, and reform. The question now is whether the political establishment will listen. ■

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FAREWELL

Chief Justice Junaid Ghaffar

Bench Bids Farewell

A tenure defined by procedural clarity and judicial restraint, Sindh High Court bids farewell to one of its most methodical jurists.*TL Report
Karachi*

After a monumental career crafting over 27,000 judgments, the gavel has fallen for the final time on Chief Justice Mr. Justice Muhammad Junaid Ghaffar's esteemed tenure on September 13, at Sindh High Court.

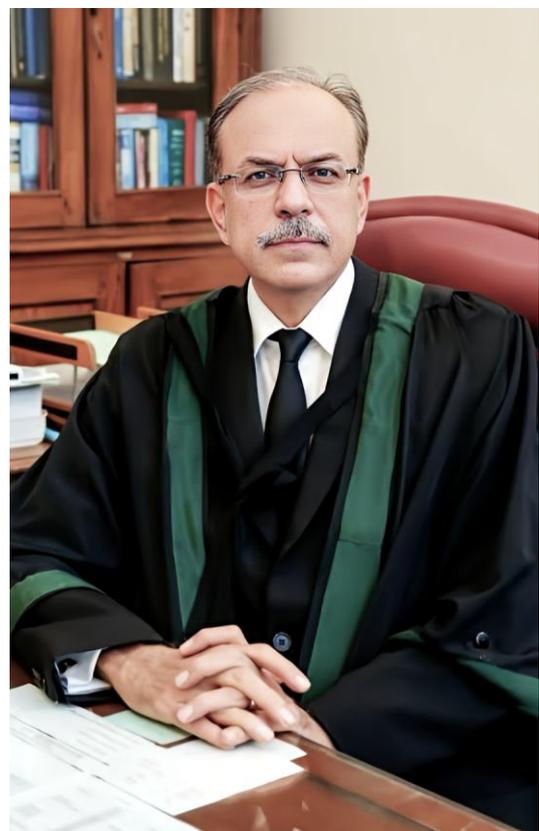
His retirement marks the end of a decade-long service defined by interpretive rigour and an unwavering commitment to procedural clarity. Celebrated for his significant contributions to Pakistan's commercial and constitutional jurisprudence, his judgments are revered in legal circles as models of restraint, statutory fidelity, and doctrinal coherence, cementing his legacy as a guardian of institutional integrity.

Born in Karachi on 14 September 1963, Justice Ghaffar's early education at Little Folk's Secondary School and Government National College preceded a brief enrolment in electrical engineering at NED University. However, his intellectual trajectory shifted decisively towards law, culminating in an LL.B from S. M. Law College in 1990, where he graduated with first-class honours and secured second position in his cohort. This early distinction presaged a legal career characterised by methodical reasoning and a deep respect for procedural form.

He was enrolled as an advocate in 1993 and quickly established himself in the fields of taxation, customs, and intellectual property. His practice matured during his tenure as partner at Navin Merchant & Associates (2003–2013), where he handled complex commercial litigation, regulatory disputes, and contractual matters across the energy and logistics sectors. In 2013, he founded his own chambers and was appointed as an Additional Judge of the Sindh High Court later that year. He was confirmed as a permanent judge in August 2015 and elevated to Chief Justice in July 2025, following a brief stint as Acting Chief Justice earlier that year.

Justice Ghaffar's judicial output reflects a consistent emphasis on statutory interpretation and procedural discipline. His decisions in federal excise, sales tax, and customs law have clarified ambiguities and reinforced legislative intent, while his rulings in intellectual property and commercial regulation have shaped the contours of legal practice in those domains. His courtroom was known for its decorum and precision, and his approach to adjudication was marked by a refusal to editorialise beyond the record—a trait that earned him the respect of both the bench and bar.

Beyond his judicial duties, Justice Ghaffar played a central role in the administrative functioning of the court. He chaired the Purchase Committee, the Promotion Committee, and the Selection Board for mid-level appointments, and served on the Administration Committee and the Automation & Court



Technologies Committee.

His representation of the Sindh High Court in the National Judicial Automation Committee underscored his commitment to procedural reform and technological modernisation. He remained an active member of the Supreme Court Bar Association and the Pakistan Intellectual Property Rights Association, and held office in the Memon Professional Forum, reflecting a sustained engagement with both legal and civic institutions.

As Justice Ghaffar steps away from the bench, his legacy is likely to endure in the standards he upheld and the jurisprudential clarity he championed. His retirement marks not merely the conclusion of a judicial career, but the departure of a jurist whose work quietly but decisively shaped the procedural conscience of the court. ■



ELECTIONS

**Islamabad
Bar
Council**



Javaid Iqbal Banday Launches Campaign

Advocate Javaid Iqbal Banday, a distinguished figure in the legal community, has officially launched his campaign for a seat in the upcoming Islamabad Bar Council (IBC) elections. The event, held at Shuhada Hall, was a well-attended gathering organised by his supporters. The discussions focused on the vital role of lawyers and the functions of Bar Councils, exploring how these institutions serve and support the legal profession.

In his address, Advocate Banday expressed deep gratitude to those in attendance, noting that their trust and encouragement are central to his sense of pride and success. He also presented a nine-point manifesto, outlining his vision for the future. Following this, a lively open dialogue session took place, with Banday addressing questions from a number of esteemed lawyers.

Among the notable attendees were Niaz Ahmad Rathore, Advocate Supreme Court and former President of the Lahore High Court Bar Rawalpindi; Syed Ahmad Hassan Shah, Advocate Supreme Court; Mir Afzal Malik,

Advocate Supreme Court; Tasadduq Hanif, Advocate Supreme Court and former Secretary of the Islamabad High Court Bar; Ata Ullah Kundi, Advocate Supreme Court; Ali Hussain Bhatti, Advocate Supreme Court; Jam Khurshid, Advocate Supreme Court; Nabeela Irshad, Advocate High Court; and Nadia Huma Hashmat, Advocate High Court, among others.

The IBC has formally announced that the elections for five seats, as outlined under Section 5(2) of the Legal Practitioners and Bar Councils Act, 1973, are scheduled to take place on 1st November 2025. This date adheres to Rule 4(3) of the Pakistan Legal Practitioners and Bar Councils Rules, 1976.

Legal professionals are encouraged to familiarise themselves with Rule 5 of the 1976 Rules, which covers the eligibility criteria, nomination process, and conduct requirements for candidates. Ayaz Shaukat, Chairman of the IBC and Advocate General for Islamabad Capital Territory (ICT), has been appointed as the Returning Officer for the election. ■





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TL EVENT



Orientation to Empower Women Lawyers

In an initiative aimed at reshaping the gender dynamics of Pakistan's legal profession, the S&S Law Associates recently conducted a pioneering *Orientation Programme for Women Entering the Legal Profession*.

The five-day programme drew aspiring female lawyers from across the country, including Azad Jammu & Kashmir, Sindh, Khyber Pakhtunkhwa, Punjab, and the Federal Capital Territory, marking a decisive step towards institutional inclusion and professional parity.

Designed to equip participants with practical legal acumen, the programme offered

TL Report
Islamabad

intensive training led by senior advocates and international legal experts, including UK-based barristers and corporate counsel from multinational firms. Core modules addressed court procedures, bar licensing protocols, legal career pathways, and Alternative Dispute Resolution (ADR), alongside other essential areas of practice.

Participants attended lectures by Nida Usman Chaudhary, founder of Women in Law; Layla Dean Verity, a UK barrister; and Advocate Sarah Farooq (LL.M UC Berkeley & LL.M Birmingham), a distinguished in-house counsel with over two decades of

global experience.

The aspiring lawyers also undertook guided visits to the Supreme Court of Pakistan, the Lahore High Court's Rawalpindi Bench, and Islamabad's District Courts, engaging directly with members of the judiciary.

They further visited the Federal Ombudsman Secretariat in Islamabad, where the Wafaqi Mohtasib (Federal Ombudsman) delivered a special address on institutional redress and access to justice.

A formal certification ceremony concluded the event, celebrating the inaugural cohort's commitment to legal excellence and gender equity. ■



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